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ABSTRACT

This report of the second hearing on the Smoking Prevention Education Act focuses on advertising practices of the tobacco industry; the first hearing dealt with health related issues. The report includes testimony of three panels of witnesses who discussed the effectiveness of European programs in cigarette labeling and consumer education, the advertising of cigarettes in the United States, and compliance with the rotational warning scheme in the bill. Statements by Dr. Donald Harrison, president of the American Heart Association; Eric Rubin, counsel to the Outdoor Advertising Association of America; and David Minton, counsel to the Magazine Publishers Association, are presented. Also included are 26 additional articles, letters and statements from medical and advertising associations supporting and opposing the bill. (JAC)

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COMPREHENSIVE SMOKING PREVENTION EDUCATION ACT OF 1981

ED229683

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 1929

TO AMEND THE PUBLIC HEALTH SERVICE ACT AND THE FEDERAL CIGARETTE LABELING AND ADVERTISING ACT TO INCREASE THE AVAILABILITY TO THE AMERICAN PUBLIC OF INFORMATION ON THE HEALTH CONSEQUENCES OF SMOKING AND THEREBY IMPROVE INFORMED CHOICE, AND FOR OTHER PURPOSES

MAY 10, 1982

Serial No. 97-123

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COMPREHENSIVE SMOKING PREVENTION EDUCATION ACT OF 1981

MONDAY, MAY 10, 1982

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 235, Russell Senate Office Building, Hon. Bob Packwood (chairman of the committee) presiding.

Staff members assigned to this hearing: Richard L. Perlmutter, Lawrence Fallerton, staff counsels; Amy L. Bondurant and Loretta Dunn, minority staff counsels.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. The committee will come to order, please.

We are assembled today to investigate a product that is linked with over 300,000 deaths per year and one of the most heavily advertised and promoted products in the world. Not only is the tobacco business a big business in this country and throughout the world, but cigarette advertising expenditures alone approach $1 billion a year.

This is the second of two hearings on the Comprehensive Smoking Prevention and Education Act of 1981. In March 1982, Senator Hatch held a hearing on this bill which focused on the health-related issues. Today's hearing will focus on the advertising practices of the tobacco companies and the impact of the bill on that industry.

We have assembled three panels of witnesses who will discuss the effectiveness of European programs in cigarette labeling and consumer education, the advertising of cigarettes within the United States, and compliance with the rotational warning scheme in the bill.

With the release of the 1964 Surgeon General's report linking smoking and cancer, the United States assumed a leadership role in informing the public of the health dangers associated with smoking. In recent years, however, many European countries have far exceeded the United States in their sophistication in furthering public awareness of the adverse effects of smoking.

The program of rotational health warning labels which is presently under consideration by this committee is a program that has proved successful in European countries. I would like to emphasize that we have proposed a system that has already proved to be successful.

I am very concerned about the extent of advertising of cigarettes in publications that are directed at children and women. In fact, there is a relationship between the dramatic increase of cigarette advertising in women-oriented magazines and the number of women afflicted with smoking-related diseases.

In addition, I am concerned about the targeting of young persons through advertisements that create role models of smokers as being healthy, well-respected, and successful.

Most important, we are examining this issue today because the American public is suffering from a lack of knowledge concerning the health effects of smoking. Even if this program succeeds in informing just a handful of teenagers of the link between smoking and numerous diseases, then our efforts would have been well worth it.

I am looking forward to hearing from the witnesses who are scheduled to testify today.

Senator Ford?

OPENING STATEMENT BY SENATOR FORD

Senator FORD. Thank you, Mr. Chairman.

Today the committee is considering S. 1929. I want to reiterate what the chairman has said, that we are here today to discuss advertising because the Labor and Human Services Committee has already discussed the health issue. This hearing follows one held by the Committee on Labor and Human Resources.

The Senate recently voted overwhelmingly to pass an omnibus regulatory reform bill, S. 1080. The main thrust of S. 1080 was to require agencies to do an analysis of the costs and benefits of proposed regulations.

I believe an examination of the costs and benefits of this legislation should be undertaken. What benefits would S. 1929 produce with its requirements of rotational warning labels? This question really has two parts: No. 1, is the public aware of the research concerning the possible harmful effects of smoking; No. 2, if the public is not aware, will the scheme mandated by S. 1929 create that awareness?

To explore the first question, how knowledgeable is the general public about the possible effects, the Federal Trade Commission staff report on cigarette advertising released in May of 1981 stated that studies have found that 90 percent of the public were aware that smoking may be harmful to your health. That staff report acknowledges that it is possible that a small portion of consumers are unreachable on the issue of hazards of smoking.

I would cite many other examples of the exceptionally high level of awareness that the public has concerning the specific effects to which the rotational warning labels are addressed. I think the statistics found in the FTC staff report show something we all suspect, that the public is quite knowledgeable about the possible hazards associated with smoking.

However, even if we were to assume that the public was unaware of any possible harmful side effects, would the requirement of rotational warnings in S. 1929 raise the level of awareness? Testimony in hearings before the House Committee on Energy and Commerce

from advertisers indicate that the scheme proposed by S. 1929 would not work and in reality would be counterproductive. Let me repeat that. The advertisers indicated that the scheme proposed by S. 1929 would not work and in reality would be counterproductive.

Advertisers follow a simple creed which I will paraphrase: "Keep it simple, keep it clear, do it often, make it consistent, and be single-minded." Changing labels frequently will not increase awareness. It will merely confuse and alienate the reader.

I believe the reason we have such a phenomenal public awareness, 90 percent, is due to the fact that the warning label has basically remained the same since it was instigated in 1965. The American people are bombarded with information on smoking. Groups such as the American Heart Association and others effectively disseminate information about smoking through print, radio and television. The American public is well aware of the research done in the hazards of smoking.

Whether that knowledge flows from the warning label or from other sources or a combination of all this information, the fact remains that only a small percentage of the American public is not aware of studies that indicate smoking may be hazardous. And that small percentage may reflect, one, smokers who refuse to believe there are dangers; or, two, that small portion of consumers the FTC staff cites that are unreachable.

I do not agree with some of the FTC conclusions and the implications in S. 1929 that portray the American public as too ignorant of the risks that have been associated with cigarette smoking.

The warning label now used was originally devised as an alert. If you test any random group of consumers, I am sure they will indicate that they are alerted to the risk of smoking, whether or not they are a smoker, but they are incapable of providing the precise knowledge required by the FTC. The level of awareness is astonishingly high.

I think at some point the American public can become jaded, and it is time for the Government to use health hazard warnings with caution. You can overwhelm the public and I believe we have reached that point. Every night the news media reports some Government or independent finding on the hazards of salt, cholesterol, rich food products, coffee, sugar substitutes, red meat, wine, beer, and whisky, and the last three will help eliminate the malaise of the above.

Why then do we need S. 1929? In this era of deregulation, why do we need more burdensome requirements imposed on an entire industry? I see little benefit flowing from this bill. What I do see is a misguided attempt to prevent educated consumers who wish to smoke from smoking. This bill would not accomplish that purpose and no legislation will.

Its estimated cost, $40 million to the tobacco industry alone. It places unnecessary regulatory burdens on an industry which contributes more than $57 billion to the gross national product. In Kentucky alone, tobacco means income to 164,000 farm families. It means 81,000 jobs and $48 million in taxes to that State.

The American tobacco industry is now involved in a highly competitive attempt to provide the consumer with low tar, low nicotine cigarettes. Consumers receive information on these new ultralow

tar products through advertising. I think it is an encouraging trend that low tar brands account for nearly 50 percent of all cigarette sales in 1980 compared to 2 percent in 1974.

The 1980 Surgeon General's report concluded that smoking cigarettes with lower yields of tar and nicotine poses a lower risk than smoking other cigarettes, providing there is no change in the smoking habits. We should be encouraging the development, production, and marketing of new ultralow tar cigarettes.

One last point, Mr. Chairman. We have a report based on questionable data and the bill which is presumably based on that report, and I have many unanswered questions concerning the FTC staff report. There are also many unanswered questions concerning the effects of this bill, the costs of compliance both to the industry and to the taxpayers.

Mr. Chairman, if this bill, S. 1929, is drafted from the FTC's staff report, I feel we need an additional day of hearings on this bill to talk to the FTC and get some of the answers. I would request at this time, Mr. Chairman, that the committee schedule another day so that the Senators of this committee can hear from the Commission.

I hope that we might agree that the American public does not need or want Congress to initiate costly programs of little or no benefit to the people. S. 1929 is a perfect example of yet another Federal solution to the problem that does not exist.

The CHAIRMAN. Senator Heflin.

Senator HEFLIN. I have no comments.

The CHAIRMAN. Senator Gorton.

OPENING STATEMENT BY SENATOR GORTON

Senator GORTON. Mr. Chairman, there can no longer be a serious question that cigarette smoking is the single most important preventable cause of illness and premature death in the United States. Estimates of the number of deaths related to smoking exceed 300,000 per year. Columnist George Will recently reported that more Americans have been killed by tobacco than have been killed in all America's wars and traffic accidents.

Smoking is a major cause of lung cancer, other cancers, emphysema, and chronic bronchitis. It is one of the major risk factors for heart disease and is also associated with peptic ulcer disease. Maternal cigarette smoking may result in miscarriage, premature birth, and retarded fetal growth.

Happily, the prevalence of smoking is declining in America. I believe that this is attributable in large measure to public education on the hazards of smoking. However, a recent FTC staff study clearly showed that far too many smokers still do not have sufficient specific information about the relationship between smoking and some of its most serious health consequences to make an informed judgment about the nature and extent of the risks involved in smoking.

For instance, the FTC found that nearly 50 percent of women do not know that smoking during pregnancy increases the risk of stillbirths and miscarriage. Also, more than 30 percent of the public

was found to be unaware of the relationship between smoking and heart disease.

S. 1929 is designed primarily simply to fill this information gap. This is especially important with our young people. In the previous hearing on S. 1929 before the Committee on Labor and Human Resources, testimony on behalf of the American Cancer Society revealed that by the ages of 17 and 18 the incidence of smoking in young men is over 19 percent and in young women over 2[illegible] percent. Young people are attracted to smoking by advertising, peer pressure, and imitation of peers and adults.

At the very least, we must make certain that they have the best specific information about the health risks of smoking readily available, so that they have the opportunity to make an informed choice. We are speaking here of a program of health promotion and illness prevention.

As Senator Hatch has eloquently stated, this is the most cost effective type of health program possible, not only in terms of dollar costs but also in terms of human costs.

Mr. Chairman, for these reasons I am pleased to cosponsor S. 1929 and to participate in these hearings.

[The bill follows:]

II

97TH CONGRESS
1ST SESSION

S. 1929

To amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9 (legislative day, NOVEMBER 30), 1981

Mr. HATCH (for himself and Mr. PACKWOOD) introduced the following bill; which was read twice and referred jointly by unanimous consent to the Committees on Commerce, Science, and Transportation and Labor and Human Resources

---

A BILL

To amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Smoking Prevention Education Act of 1981".

FINDINGS

SEC. 2. The Congress finds that—

(1) cigarette smoking is the largest preventable cause of illness and premature death in the United States, and is associated with the unnecessary deaths of over three hundred thousand Americans annually;

(2) smoking is the primary cause of lung cancer and emphysema in the United States, and is associated with other cancers;

(3) heart disease accounts for nearly one-half of the deaths in the United States, and one-third of the deaths attributable to heart disease are associated with smoking;

(4) the risks of miscarriage, stillbirths, premature births, and child weight deficiencies for pregnant women who smoke are higher than for pregnant women who do not smoke;

(5) certain occupational hazards, in conjunction with smoking, increase substantially the risk of disease and death; and

(6) present Federal, State, and private initiatives have been insufficient in conveying to the American public the information contained in clauses (1) through (5) of this section and other information regarding smoking.

PURPOSE

SEC. 3. It is the purpose of this Act to provide a new strategy to educate and provide information to the American public that will allow individuals to make informed decisions concerning smoking.

SMOKING RESEARCH, EDUCATION, AND INFORMATION

SEC. 4. (a) Title XVII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"SMOKING AND HEALTH

"SEC. 1711. (a) The Secretary shall establish and carry out a program to inform the public of the dangers to health from cigarette smoking. In carrying out such program, the Secretary shall—

"(1) coordinate all activities of the Department which relate to smoking and its effects on health, including research and demonstration projects and educational activities;

"(2) through the Interagency Committee on Smoking and Health established under subsection (b), coordinate the activities referred to in clause (1) of this subsection with all other activities of the Federal Government which relate to smoking and its effects on health;

"(3) through the Interagency Committee on Smoking and Health established under subsection (b), coordinate the activities of the Federal Government referred to in clauses (1) and (2) of this subsection with similar activities in the private sector;

"(4) conduct research and develop new methods for informing the public of the effects of smoking on health, either independently or in conjunction with the private sector, for use in a national effort;

"(5) collect, analyze, and disseminate information, studies, and other data related to smoking and its effects on health;

"(6) make available, through specific publications and bibliographic and reference materials, information on research efforts relating to smoking and its effects on health; and

"(7) undertake any other additional informational and research activities which the Secretary determines necessary and appropriate.

In carrying out the requirements of this subsection, the Secretary shall seek to develop methods of communication with Federal, State, and local entities, as well as with the private sector.

"(b)(1) To carry out the activities described in clauses (2) and (3) of subsection (a), there is established an Inter-

agency Committee on Smoking and Health. The Committee shall be composed of—

"(A) representatives from appropriate institutes and agencies of the Department, which may include the National Heart, Lung, and Blood Institute, the National Cancer Institute, the National Institute on Child Health and Development, the Health Services Administration, the Health Resources Administration, and the Center for Disease Control; and

"(B) at least one representative from the Federal Trade Commission, the Department of Education, the Department of Labor, and any other Federal agency designated by the Secretary.

"(2) The Committee shall meet at least four times each year.

"(c) The Secretary shall transmit a report to Congress not later than January 1 of each year which shall contain—

"(1) current information on the effects of smoking on health;

"(2) an overview and assessment of Federal activities undertaken to inform the public of the effects of smoking on health;

"(3) information regarding the activities of the private sector with respect to the effects of smoking on health; and

"(4) such recommendations for legislation as the Secretary may consider appropriate.".

(b) Section 8 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1337) is amended by striking out subsection (a) and by striking out "(b)" before "The Federal Trade Commission".

CIGARETTE LABELING

SEC. 5. Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"LABELING

"SEC. 4. (a)(1) It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States, or advertise any cigarettes, the package or advertisement for which fails to bear one of the following statements:

"(A) 'Cigarette Smoking is Dangerous to Your Health. For Information on the Specific Health Consequences of Smoking, Write: Surgeon General, U.S. Public Health Service, Washington, D.C., 20201.'.

"(B) 'WARNING: The Surgeon General has Determined that Cigarette Smoking Causes Emphysema, Lung Cancer, and Other Cancers.'.

"(C) 'WARNING: The Surgeon General has Determined that Cigarette Smoking Causes Heart Disease.'.

"(D) 'WARNING: The Surgeon General has Determined that Cigarette Smoking by Pregnant Women May Result in Miscarriage, Premature Births, or Child Weight Deficiencies.'.

"(E) 'SMOKERS: No Matter How Long You Have Smoked, Quitting Now Greatly Reduces The Risks To Your Health.'.

"(2) The labeling statements specified in paragraph (1) of this subsection shall be rotated on the packages of each brand of cigarettes and the advertisements for each brand of cigarettes in a manner that assures that each of such labeling statements appears an equal number of times on each brand of cigarettes and all such advertisements within the fifteen-month period beginning on the effective date of this subsection and each succeeding fifteen-month period.

"(3) Any labeling statement required under this subsection shall be located in a conspicuous place on every cigarette package and in each advertisement for cigarettes, and shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the package or advertisement.

"(4) In accordance with the provisions of section 553 of title 5, United States Code, the Federal Trade Commission shall establish by rule a system to ensure that labeling statements required under this subsection are rotated in accordance with the provisions of paragraph (2) of this subsection, and that at any time each of the five labeling statements appears on at least 15 per centum of all cigarette packages and advertising.

"(b)(1) It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes, the package of which fails to disclose the level of—

"(A) tar;

"(B) nicotine; and

"(C) carbon monoxide,

contained in such cigarettes.

"(2) Such tar, nicotine, and carbon monoxide levels shall be based on the results of the most recent tests of cigarettes by the Federal Trade Commission. The Federal Trade Commission shall perform such tests at least on an annual basis.

"(c)(1) It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes unless such person has provided to the Federal Trade Commission and the Department of

Health and Human Services a complete list of each chemical additive used in the manufacture of such cigarettes and the quantity of such additive.

"(2) The Federal Trade Commission and the Department of Health and Human Services and any officer or employee thereof shall not disclose to any person outside the Commission or the Department any information received pursuant to paragraph (1).

"(3) For purposes of section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, any information received by the Federal Trade Commission and the Department of Health and Human Services pursuant to paragraph (1) shall be considered to be a trade secret.".

PREEMPTION

SEC. 6. Section 5(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334(a)) is amended—

(1) by striking out "statement" each place it appears and inserting in lieu thereof "statements"; and

(2) by inserting before the period the following: "or in any cigarette advertising".

EFFECTIVE DATE

SEC. 7. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the date of enactment.

(b) The amendments made by sections 5 and 6 of this Act shall take effect upon the expiration of the one-year period beginning on the date of the enactment of this Act. During such one-year period, the Federal Trade Commission shall promulgate such regulations as may be necessary to implement the amendments made by sections 5 and 6 on their effective date.

The CHAIRMAN. We will adhere to our normal committee rules on the testimony this morning. All of the testimony will be put in the record in toto, and the witnesses will be limited to 5 minutes apiece so that we will have time for questions. And I can assure you that we will have a number of questions.

I have had a chance to read all of the testimony that was submitted as of the weekend and I found it most illuminating. We will start this morning with Dr. Donald Harrison, president of the American Heart Association. Dr. Harrison.

STATEMENT OF DR. DONALD C. HARRISON, PRESIDENT, AMERICAN HEART ASSOCIATION

Dr. HARRISON. Mr. Chairman and members of the committee, I am Dr. Donald Harrison, William G. Irwin Professor of Cardiology and chief of cardiology at Stanford University, and at the present time president of the American Heart Association.

I appreciate this opportunity to testify to your committee on behalf of the National Interagency Council on Smoking and Health, composed of 27 national organizations, and the Coalition on Smoking or Health, composed of the American Cancer Society, the American Lung Association and the American Heart Association, together with the Interagency Council.

We share a common concern about the health consequences of cigarette smoking and are attempting to bring issues relating to the prevention of smoking, especially among children, to the attention of the public and legislatures. We strongly support smoking prevention and research on smoking abatement.

Today we testify in strong support of S. 1929, the Comprehensive Smoking Prevention and Education Act of 1981. Our written testimony has been submitted and I wish to enlarge on several specific points.

Initially, let us review the health consequences of smoking, as you have already done this morning. First, cigarette smoking has been unequivocally linked to lung cancer, emphysema, chronic bronchitis, coronary heart disease, and other medical conditions. Second, during his testimony on March 11, 1982, Assistant Health and Human Services Secretary Brandt reemphasized the specific justification for cigarette warning labels and his support for those similar to the recommendations in Senate bill 1929, and seven points in his testimony.

Assistant Secretary Brandt stated specifically:

No. 1, cigarette smoking is the largest preventable cause of illness and premature deaths, and is associated with the unnecessary deaths of over 300,000 Americans yearly;

No. 2, cigarette smoking is the No. 1 cause of emphysema;

No. 3, cigarette smoking is the No. 1 cause of lung cancer and chronic obstructive lung disease;

No. 4, cardiovascular deaths number nearly 1 million, nearly, and it is estimated that one-third of those are attributed to smoking;

No. 5, cigarette smoking is one of the major risk factors for coronary heart disease, that is, heart attacks and sudden cardiac deaths;

No. 6, pregnant women who smoke are at a higher risk for spontaneous abortions, still births, premature births, and child weight deficiencies than women who do not smoke;

No. 7, cigarette smoking is addictive and in a major way it injures health.

Third, in February 1982, the Surgeon General report entitled "The Health Consequences of Smoking—Cancer," found cigarette smoking was a major cause of cancer of the lung, larynx, oral cavity, and esophagus. It was suggested as a contributory factor to bladder, kidney, and pancreatic cancer.

Senator FORD. Mr. Chairman, I do not want to stop Dr. Harrison from his testimony, but we are here trying to attempt to determine advertising issues and health issues already on the record. And Dr. Harrison, I hope you understand why I am saying this. We want to address advertising, labeling, and the findings in S. 1929. I do not think that the opposition to your statement will be here today, and therefore I hope you would limit it to advertising and what we can do through the labeling process.

The CHAIRMAN. Wendell, if you would look at the last four pages of his statement.

Senator FORD. Well, he can get to those, Mr. Chairman.

The CHAIRMAN. Well, he only has 5 minutes, so he'll get to them soon, I am sure. But the last four pages relate to the bill, to labeling and consumer information.

Dr. HARRISON. I will turn to that shortly.

Fourth, widespread medical and scientific evidence agree on the health hazards of smoking, and yet the tobacco industry maintains a controversy exists because a handful of scientists still do not accept these conclusions. The 30,000 scientific studies amassed since 1964, with the release of the first Surgeon General's report on smoking, demonstrate overwhelming acceptance by the medical community.

I maintain there is no controversy, only public relation tactics to confuse and create doubt in the public mind.

Now let us turn to the need for warnings on cigarette advertising and packaging. Again, I do not believe there is a controversy. Public opinion overwhelmingly supports the idea. Professional advertising groups have attempted to discredit the rotation of disease-specific warnings in prior hearings.

Personally, I would like to see the entire warning for all points printed in each ad and on all packages, perhaps as a wraparound at the bottom and the top of each package. To me, the rotational plan is a compromise of what is really needed.

Second, the present general warning is known by 90 percent of Americans, as has been stated. It is worn out and has reached the point of diminishing returns. We need a new, more specific set of warnings expressing the facts clearly and openly, such as "The only safe cigarette is a nonsmoked one."

The administration continues to support the major concepts in this bill. In a letter to me dated April 5, 1982, Ms. Virginia Knauer, Special Assistant to the President, wrote:

> The administration is deeply concerned by the compelling evidence linking cigarette smoking to a wide range of illnesses. The administration believes the warning

labels alerting the public to these hazards are entirely appropriate and that the present warnings could be strengthened.

The administration is still studying the relative efficiency of the disease-specific labeling scheme. On all other points—the overwhelming scientific evidence, the appropriateness of warning labels, and the need for stronger warnings—the administration and the health community are in complete agreement.

What will these new warning labels do, is the next point that I want to address. They provide information to the consumer at little cost to the Government or industry, since warning labels are already required.

Second, they are health information labels to provide the public with information they need to choose between smoking and not smoking. They are Government aids to protecting the American public.

Third, since tobacco and tobacco products have been exempted from all health laws enacted by Congress, namely the Food, Drug and Cosmetic Act, the Consumer Product Safety Act, the Toxic Substance Act, the Hazardous Substance Act, and the Fair Packaging and Labeling Act, this type of informational message is the only type that is remaining to convey to the American public the scientifically documented health hazards of smoking. This responsibility must be accepted by the Federal Government, for no other agency in society can do the job.

Finally, for a few personal observations. As my curriculum vitae will indicate, I am not an advertising expert and I do not come here today to address the technical aspects of advertising. But I am exposed, as are all American consumers, to the large and colorful cigarette advertisements which appear in such profusion in magazines and billboards.

There are some fundamental questions which have occurred to me as a physician and a concerned citizen as I view this advertisement. First, I have heard the argument that the cigarette advertising is not aimed at getting people to start smoking, but rather in getting current smokers to switch brands. From ads I have seen, I find it difficult to believe that these clever, highly impressive layouts are not intended to induce nonsmokers to start smoking.

Millions of Americans, including impressionable young people—and I have three such—see cigarette smoking associated with the active, healthful, exciting lifestyle. They see smokers depicted as attractive young people of both sexes, dressed at the height of fashion, and portrayed in glamorous and beautiful settings.

Let me show you a few examples. This advertisement for Virginia Slims stresses their campaign theme, "You have come a long way, baby." In all of the ads in this campaign the object seems to be to show in a flip, humorous way the unacceptable conditions under which unliberated women are forced to live.

This ad clearly says to me that young, chic, liberated women prove it by smoking. I believe that this would tend to induce young women to get with it and take up the habit of smoking and ultimately the health hazards associated with it.

Another ad just says that if you smoke more cigarettes you will be "More satisfied." We are told that by a slim, beautiful woman with a clear complexion and a stylish hairdo who is dressed in the

latest fashion. Is this not the depiction of a desirable role model for a young woman, including the satisfying habit of smoking?

I am told that in a recent edition of Cosmopolitan magazine, designed expressly for readership by young women, there appeared no less than 17 cigarette advertisements. How did they depict smokers? How many of the ads used young women models or models in settings especially designed to attract the attention of young women? I think you know almost all of them did.

Do such ads as these tend to induce young and impressionable girls and women to get with it and smoke, to emulate a lifestyle that is so surely associated with all things feminine, chic, and glamorous? I believe they do. The terrible health tragedy is that all of these glamorous role models are smoking cigarettes.

Finally, let me state clearly that nothing in the legislation we are discussing would interfere with or complicate in any way the ability of the cigarette manufacturers to advertise their products or sell cigarettes. Neither would it require costly burdensome change or addition.

Finally, Senate bill 1929 is designed to provide the consumer and the potential consumer, particularly children, with clear and concise warning statements of the health hazards that clearly are associated with smoking. The bill has overwhelming support in the medical and scientific communities from many health, educational, and youth organizations I represent them here today, and I am convinced the majority of the American public.

We would be happy to answer any questions you might have on these matters.

The CHAIRMAN. I am going to pass on questions the first round. I may have some on the health aspects later.

Senator Ford?

We will limit ourselves to 5 minutes on our questions and go through a round apiece, and then we will go through a second and third round, if necessary.

Senator FORD. Dr. Harrison, as you point out, S. 1929 purports to provide consumers and potential consumers, notably children, with information on the possible health risks associated with smoking. In light of the fact that the FTC report notes that less than 3 percent of adults exposed to cigarette ads actually read the warning labels, what evidence do you have that rotational warning labels are the best way to inform the consumer?

Dr. HARRISON. Senator, I am not an advertising expert, but I believe that the label as it now states, "the Surgeon General has determined cigarette smoking is dangerous to your health," is rather nonspecific, and I think if all of the warnings, including the risk of heart disease, cancer of the lung, larynx, oral cavity, were on there, that this would be much more specific and much more meaningful in terms of informing the public about the risks of cigarette smoking.

Senator FORD. Well, if we get all of that onto a package of cigarettes, would it become a textbook?

Dr. HARRISON. That is why I said that I believe that we are talking about a compromise with the rotational warnings we are talking about. I personally would like to see the whole thing wrapped around the top of the pack of cigarettes.

Senator FORD. Oh, I understand that. But if you put all labels in the bill, it would be a terrific amount. It is almost like labeling a can of beer. You would have to have a quart in order to get the wording on it.

Dr. HARRISON. I would think that the wording could be pared down to be small and be much more specific and be very prominently displayed in the ads, and I think that that could be done.

Senator FORD. Can you beat 90 percent?

Dr. HARRISON. Well, that leaves 5,400,000 of them not knowing about the risk, and I think that the risk of heart disease perhaps still is 50 percent that do not know about it. They may know about cancer, but I think that nearly a million heart disease each year, that it is a greater risk in the long term from that standpoint.

Senator FORD. But Doctor, you say that rotating the content of the warning label is a simple matter. Since we have not had the benefit of FTC's testimony on this procedural matter, I was wondering if you would advise the committee on how you reached this conclusion.

Dr. HARRISON. As I have pointed out, I am not an expert in advertising, and I will leave that question to your next three panels.

Senator FORD. But you have arrived at a conclusion here today. You endorse this legislation.

Dr. HARRISON. Yes, I do.

Senator FORD. Then how did you arrive at that conclusion?

Dr. HARRISON. Even, sir, if it costs several millions of dollars, as I think you pointed out in your testimony, it seems to me that the warning to the American public is desperately needed at this time with the terrible toll that smoking has extracted from our public health problems of today.

Senator FORD. Well, you stated that this legislation seeks only to provide information to consumers at no cost to Government or industry. Unfortunately, there will be costs associated with this bill, costs to carry out provisions that the Secretary of Health and Human Services conduct research, develop new programs, collect, analyze, and disseminate information, make publications, material, and information available. I think it must be made clear right now that there will be costs to the Government associated with this bill, that there will be costs not only in setting up this program but in administering and monitoring the rotational warning system.

Again, this committee and the previous two committees that have held hearings on this bill have had the benefit of testimony as to the cost to the Federal Government of this bill. No one really knows how many supervisors, how much surveillance, how many dollars that is going to cost the industry.

Can you please tell us, Dr. Harrison, on what you base your statement that rotating labels are a simple matter and there will be no costs associated with this bill?

Dr. HARRISON. Well, in my prepared testimony it said no cost, but even sir, let me point out that cigarette smoking in this country costs $13 billion in medical care costs each year, $25 billion in lost economic productivity, and $3.8 billion at this time for medicare and medicaid, and in my previous testimony on the NIH appropriation legislation, I pointed out that the chronic health care costs in this country are increasing rapidly and medicare costs are

being driven up so rapidly by diseases which are largely related to smoking that it seems to me even if there is cost, that we must invest this to abate this preventable disease that we have going on at this time.

It seems to me that it is time that our Nation looks at this as our No. 1 preventable health problem in the country, and even if it does cost, we should take this quite seriously and begin to work with it.

Senator FORD. We had an administration that believes in getting regulation off your back—and the bell rang, so I will come back.

The CHAIRMAN. Senator Heflin?

Senator HEFLIN. Doctor, you are an outstanding specialist in the field of the heart. I wonder if you have gathered any statistics yourself and in the event you have not, whether there have been any statistics that have been gathered by various educational or associations dealing with heart disease which would indicate in several types of categories, first, those that you have treated or those that have been treated by other doctors but still in the statistical study before they have heart disease where the doctor has warned the patient that the smoking is injurious to their health.

Then I would put it if possible into certain categories like one, two or three packs a day, and what percentage of those that you have told this have stopped smoking.

Dr. HARRISON. Senator, I do not have the exact data that you are asking for, but there are numerous studies, and the Framingham study from Massachusetts is perhaps the most notable study pointing out that with increasing number of cigarettes you smoke, the increasing risk of heart disease, and that is almost a linear increase, going up to multiple fold increase after a number of years of smoking. It is also known that if you took the curves that are plotted here in this booklet showing the total cigarette consumption since 1900 to 1979 in this country, if you plotted the coronary heart disease death rate, you would have a curve that would almost superimpose on top of that curve.

Senator HEFLIN. I am asking you about warnings that you have given to patients, and how many of them have complied with your request that they stop smoking?

Have you made any figures yourself, personally? That is before they have heart disease.

Then I want to ask you after they had a heart disease, what percentage respond to your oral warning?

Dr. HARRISON. I would say, sir, that in my experience, about 30 percent of the people that are given all of the information and warnings that have not yet had some major event will stop smoking and not start again.

Senator HEFLIN. Is this before they have heart disease?

Dr. HARRISON. That is right.

Senator HEFLIN. Now, what about after they have heart disease?

Dr. HARRISON. The most convincing thing in terms of getting someone to stop smoking is to talk to them after they have had open heart surgery or coronary bypass surgery. I have a very easy time of getting 75 or 80 percent of those people to stop smoking.

Senator HEFLIN. That is after?

Dr. HARRISON. That is after a major heart operation.

Senator HEFLIN. Have there been any studies that have been made which are supported by empirical evidence to the effect of before and after heart disease as to physicians' warnings?

Dr. HARRISON. Yes, there have been studies. I cannot quote them chapter and verse, but they all indicate the things that I have indicated, that to get people to stop before some event is very difficult. Many people will stop, as you do after stopping the lighting of each cigarette, but to stay stopped for a year, which is usually considered an appropriate amount of time, only a small percentage, 20 or 30 percent, in all the studies that I know of that have been done with all of the major programs. After a major attack it is a different story, and a larger percentage, although still many people who do not really accept the risk as well as they might, will start back smoking. But most people after a major event can be convinced to stop.

Senator HEFLIN. Could you identify those studies? If you cannot do it now, if you would by writing indicate the identifications of studies of oral warnings by physicians and the results therefrom, and I suppose studies would have different fields, like whether they are smoking half a pack or one pack or two packs or four packs a day or whatever it might be.

Dr. HARRISON. I shall provide you with that, sir.

Senator HEFLIN. All right, thank you.

But let me ask you this. You say that 30 percent of those beforehand. I suppose that in that 30 percent, while they did not have heart disease, they had something that they thought was heart disease or they would not come to you.

Dr. HARRISON. I would not be seeing them in a routine way except for that, but even in studies where that is not true, if you are in a major program and want to stop smoking, that 30 percent figure for stopping and remaining stopped over a period of year when you have had no major event is a widely quoted figure.

Senator HEFLIN. Are there any studies on just routine yearly physical exams as to where a physician orally warns the patient against smoking, as to what percentage would stop?

Dr. HARRISON. It would be a much lower percentage than the 30 percent.

Senator HEFLIN. Do you have any guess as to what the lower would be?

Dr. HARRISON. It would be strictly a guess, but 15 or 20 percent would be a high figure, I think. It would be the upper limits of that figure, more like 10 percent.

Senator HEFLIN. Thank you.

The CHAIRMAN. Senator Gorton.

Senator GORTON. Dr. Harrison, I take it that while your testimony here indicates a strong support for this bill, that that does not necessarily imply that you think that this is the best single way to make more effective the war against smoking or that you think that standing alone this will solve the problems which you see on a day by day basis.

Is that correct?

Dr. HARRISON. That is correct. I think this bill is a compromise that is practical as to what you can put on a label, although I believe that if you worked at it you could do better.

Senator GORTON. Even beyond labeling, I take it that if you were able to set public policy for the United States, you would take further action in connection with the prevention of smoking, is that correct as well?

Dr. HARRISON. I think we need major health education and health prevention messages to the public in a broad way, looking at the change in lifestyle and behavior that can affect our health in a major way. I think the progress we have made in 10 years with the 30-percent decline in cardiovascular deaths has been a very impressive one, and I believe that we can continue that and that many of the illnesses that ravage the aged population in this country and ultimately stand a chance of bankrupting our medicare and medicaid systems can be prevented.

Senator GORTON. Am I also correct in saying that your testimony in favor of this bill is not conditioned upon a finding that it will be of no cost to the tobacco companies or to those who smoke, that even if there were a significant cost which in fact raised the price of cigarettes, you would still feel that this was an investment very much worthwhile?

Dr. HARRISON. Absolutely, and quite strongly.

Senator GORTON. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Stevens?

Senator STEVENS. Doctor, your testimony indicates 90 percent of the public know or believe the content of the warning now, and yet you say you think that current warning has reached the point of diminishing returns.

Why is that?

Dr. HARRISON. Sir, I think that the warning as it now reads says "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health" is not nearly as effective as saying it causes lung cancer, heart disease, chronic obstructive lung disease, and so forth.

Senator STEVENS. If 90 percent of the people know of the warning and still smoke, what good is it going to do no matter what you say?

Dr. HARRISON. I think the warning labels, sir, are aimed more at preventing people from starting to smoke than smoking abatement or stopping people from smoking. People are addicted to nicotine, and we need more research on how they are addicted to nicotine to be able to tackle that problem.

My concern is the young people starting smoking. I think very specific warnings are much more effective than the general warning that we now have.

Senator STEVENS. What has your research shown as to what causes a young person to start to smoke?

Dr. HARRISON. Again, I will demur from that. I am not in advertising, but I think that from a personal standpoint I believe that ads such as this that depict beautiful lifestyles with smoking cigarettes causes young people, particularly in their very early teens, to start smoking. That is my personal opinion.

Senator STEVENS. Did you ever smoke, Doctor?

Dr. HARRISON. I never smoked, sir.

Senator STEVENS. Do you have any children that smoke?

Dr. HARRISON. No, sir, none of my children have smoked. I have given them the message from very early childhood not to smoke.

Senator STEVENS. Then are you not the living proof of the answer that the problem is communication from parent to child and not advertising or public programs or government interference with the lives of people, but having the families teach the children the lifestyle that they ought to follow?

Dr. HARRISON. I am a living example, but there are 54 million people who are potential parents who smoke, and it is very difficult I think to take that approach.

Senator STEVENS. Maybe you have been trying to give them a message, their children a message through advertising, and you should ask them to give a message to their children themselves.

Did you ever think of that?

Dr. HARRISON. I think that is a very good point. I hope that more people do that, in fact.

Senator STEVENS. Thank you very much.

The CHAIRMAN. Senator Ford?

Senator FORD. Doctor, you say you want to stop people from smoking or not let them start, which would probably be your main goal, and you are commendably concerned about educating youth on the potential health risks associated with smoking, particularly those youths who have not yet decided to smoke.

How is a label printed on a cigarette package stating that the Surgeon General has determined that cigarette smoking by pregnant women results in miscarriage, premature births, or child weight deficiency going to deter a 12-year-old boy from taking up smoking, or for that matter convince a 30-year-old man from smoking?

Dr. HARRISON. I do not think that the pregnancy one is going to be as helpful as the one that warns about lung cancer and chronic obstructive lung disease.

Senator FORD. I asked you a question about—this is one of the proposed labels in the legislation that you have endorsed, and I asked you how it would prevent or help to stop a 12-year-old from smoking.

Dr. HARRISON. Sir, I am afraid I do not know the answer to that. I think he might be concerned with his future life if he is a very perceptive 12-year-old.

Senator FORD. He beats 12-year-olds down on Yellow Creek Key. I will tell you.

You state in your testimony that there is no agency in our society other than the Federal Government which can inform the public as to the potential health risks associated with smoking. However, in your opening remarks you state that the newly formed NICSH seeks to provide a cooperative and independent force to inform the public that 27 national organizations actively support that council.

In these times of fiscal restraint, increasing reliance on volunteerism and reduced Federal regulations, it seems to me that NICSH has the ready organized resources to be able to step forward and volunteer on a public information campaign at truly no cost to the taxpayers.

Am I wrong in that?

Dr. HARRISON. I think that is the firm resolve of all members of the NICSH and the American Heart Association to continue this. I think that the only group that has the ability to regulate this and require it is the Federal Government. Those agencies are mounting mass campaigns of education against cigarette smoking at the present time.

Senator FORD. Well, if your express purpose is to deter children from smoking by providing them with health information, how will publishing such information on a cigarette package in the form of labels help to inform a nonsmoker, particularly children?

Dr. HARRISON. I think that this kind of advertising is viewed by everyone. If there are 17 advertisements——

Senator FORD. I do not think you saw this advertisement. I want you to be sure to see this one. I think maybe you missed this one [indicating].

Dr. HARRISON. However, I think if there are 17 such ads in one issue of a magazine directed at teenage and young women, I think that they are very likely to see the labeling on there.

Senator FORD. Well, doctor, I have another one just like this, if I can find it, from an antique show that shows him sending everybody that he knows a carton for Christmas. If I get that, we will insert it in the record.

Dr. HARRISON. He looks a good deal younger there in your picture, sir.

Senator FORD. But you recognize him right off. That is like 90 percent of the people recognize the label on a pack of cigarettes. They recognize the picture on that ad. Therefore 90 percent of the people understand it.

Doctor, would you agree that usage of marihuana by young people in the United States now exceeds the usage of cigarettes?

Dr. HARRISON. I do not have the statistics on that.

Senator FORD. Do you want me to give them to you?

Dr. HARRISON. If you have them, yes.

Senator FORD. What do you think, though?

Dr. HARRISON. I doubt it, that it exceeds the cigarette consumption.

Senator FORD. Some 25 million youths aged between 13 and 19 use marihuana, and 6 million use cigarettes.

Dr. HARRISON. But they have used it only maybe once or twice in many of those cases and not smoked 20 cigarettes a day.

Senator FORD. Yes, but that is unadvertised. There is no advertisement for marihuana out there, and there is more smoking marihuana than there are cigarettes between that age. Therefore, there is not one single line of advertising in favor of marihuana. Every line you read is in opposition to it.

So I just wanted to bring that to your attention.

Dr. HARRISON. I wanted to make sure that I put on the record I am in opposition to it, too.

Senator FORD. Well, if you are going to regulate that, the farmers want their allotment quota.

One last question. I see I have my caution light.

You indicate that this legislation will substantially affect public awareness. I disagree that the American public is still too ignorant of the hazards that have been associated with cigarette smoking,

and I can think of no health claims in the years that I have served in the Congress that has received more intensive media coverage. Warning labels are also reinforced by antismoking advertisements on radio, television, and magazines. What other ways can you control behavior short of making the product illegal?

Dr. HARRISON. I am not for making it illegal. I think everyone has a right to choose his behavior or lifestyle. I just think that giving them the best health information available is essential at this point in our society.

The CHAIRMAN. Senator Heflin?

Senator HEFLIN. I am curious as to what are the anticipated results of getting more reading of warnings if rotation occurs than a single general statement which might have added to it a little bit more of the diseases? Is there something about rotation that causes more reading?

Dr. HARRISON. I will leave the specifics of that to the advertising people who will be talking later. I personally believe that a strongly, much more strongly worded warning statement that was prominently displayed might be the better of the answers. This is a compromise position in some ways, but you are going to hear about how this has worked in some of the European countries in your later testimony from the advertising people.

Senator HEFLIN. You are, of course, familiar with warnings that occur on medicine, and the warning that I have frequently known about is the warning to keep out of the reach of children prescription medicine or patent medicine and things of that sort.

How well has that worked?

Dr. HARRISON. I think it has worked. There are certainly fewer poisonings with aspirin now, which is one of the big ones where this has been used. But they have also made a cap for the bottle that is more difficult to remove for a child.

So I cannot testify to how effective it is, but I think that people will call and ask about some of those things from time to time when there are warnings on medication.

Senator HEFLIN. Was the idea of going toward this childproof bottle and that sort of thing, was that as a result of the inadequacy of warnings to accomplish their mission?

Dr. HARRISON. Yes, sir. I think there is no question that warnings, as we are talking about them, will not accomplish the mission that I am here talking about today. I just firmly believe that it is one way that we must approach this problem. It is not the only way. There are many other ways that this problem needs to be approached. We are not going to solve it with warning levels.

Senator HEFLIN. Do you anticipate that as a result of rotation warnings that you are going to have a decrease from those that presently smoke in their smoking?

Dr. HARRISON. I think that as I have said earlier, to get people to stop smoking completely and stay a year is difficult because I believe that the major problem is nicotine addiction, and that is one of the very most powerful substances causing addiction, and I believe that in fact the rotation of labeling being very specific will help, and that more disease specific labels would definitely be a counter measure, a measure that would be accepted as well.

Senator HEFLIN. How much do you really think that the rotation is going to affect smoking by those that presently smoke?

Dr. HARRISON. I am now giving you a personal opinion. I think not a great deal. But I hope that it would be very effective in preventing some people from starting, particularly those young smokers.

Senator HEFLIN. In other words, you do not think, on those that presently smoke, that rotation of labeling will have much effect, but it is those that——

Dr. HARRISON. Those that have not commenced smoking. I think in this whole problem that is where we must commence. It is not with people who have been smoking for 20 years, but with the people who have not yet started to smoke.

The CHAIRMAN. Senator Gorton?

Senator GORTON. No further questions.

The CHAIRMAN. Senator Stevens?

Senator STEVENS. Do you think any smoking is harmful, or just smoking cigarettes?

Dr. HARRISON. I think any smoking is harmful. Pipes and cigars, which have been reported not to cause as high an incidence of lung cancer, have been shown to cause cancer of the oral cavity and the lip. And again, most people who smoke, at least my experience is that they do not inhale cigars and do not get the same concentration of tars and other things in their lungs. So I think that for that reason cigarettee smoking is by far the most hazardous of the ones we are talking about.

Senator STEVENS. My staff tells me that at one time you endorsed a cigarette called Free, is that right?

Dr. HARRISON. No. This was a substance that had no tobacco in it. I did not endorse it. I worked with it and tried to do some tests. It is no longer available at this point in time.

Senator STEVENS. Is it the nicotine cigarettes that you think causes this problem?

Dr. HARRISON. I think it is the nicotine that causes the addiction to smoking. I think that the idea with Free was to provide a way out of the nicotine and hopefully to discontinue smoking completely. It was a remedy to get people off nicotine, as I viewed it. And because of financial reasons, that has not continued.

Senator STEVENS. I understand that the rotational concept of these warnings would require five separate warnings to be placed on packages, and they would be rotated in advertising and on the packages; is that the plan?

Dr. HARRISON. That is the plan as it is envisioned.

Senator STEVENS. That is sort of like Exxon having five logos.

Dr. HARRISON. Well, before they broke up Standard Oil into Exxon and all the others, there were five different parts of Standard Oil. I guess it is the same thing.

Senator STEVENS. The whole theory of warnings, is it not, is to have the same warning so people understand it, and when they see it they know what it means, like the warnings on any other kind of labeling? Why would we want to bury something that has worked? If 90 percent of the people know what this is and realize that there is a problem, why would we want to change the warning?

Dr. HARRISON. Well, I would argue that the warning as it now exists, "The Surgeon General has determined that cigarette smoking is dangerous to your health," is not as meaningful as "Cigarette smoking has been shown to cause lung cancer, heart disease, and problems with pregnancy." I think that that is a much more specific and much easier to understand label, whether it be rotational or whether it be in a single label that is disease specific.

Senator STEVENS. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Ford?

Senator FORD. A couple of items here. The FTC report that apparently we are going from now, 75 percent of the public is aware that smoking may relate to heart risk. That is a pretty high percentage without doing anything else. And you just said yourself, doctor, that the labeling in your opinion would not help, particularly those with smokers.

Now let me read to you a testimony given by Carlton Turner, senior policy adviser for drug policy, office of policy development, February 24 of this year. I think we can use the testimony outlining a more promising approach to drug and alcohol prevention to emphasize decisionmaking, peer support, confrontation, and family, school, and community involvement. "Programs that seem to be the most effective draw on the resources of business and labor, the religious community, the vast array of volunteer organizations, and are designed and executed by people who are closest to the potential user."

Now, is that not what we need to be getting to? Is that not the approach or the philosophy of this administration, that we not get into more regulation? You claim and just stated in your testimony that labeling would not work, and the group that you formed probably would have greater effect.

I just said a moment ago that marihuana is never advertised in any kind of publication, ads or anything else, and you have almost five times as many users of marihuana between 13 and 19 in this country as you have cigarettes. So, are we not maybe going after the problem, as you see it personally, in the wrong direction?

Dr. HARRISON. Senator, I endorse all of the community action propositions that you made about trying to influence behavior, and we of the Interagency Council and the American Heart Association are doing all we can in public education to try to warn of the hazards of cigarette smoking.

You mentioned a figure that 75 percent of the people know about these health hazards, even the ones as to heart disease. That still leaves over 50 million Americans who do not know, and I think that what we do in terms of putting labels, specific labels, on advertising that is so widely shown will help some of those 50 million Americans to appreciate the problems of smoking.

Senator FORD. Well, Mr. Chairman, I will stop there, I guess. I will probably think of something else.

The CHAIRMAN. Senator Gorton?

[No response.]

The CHAIRMAN. Senator Stevens?

[No response.]

The CHAIRMAN. Doctor, thank you very much.

[The following information was subsequently received for the record:]

AMERICAN HEART ASSOCIATION,
Washington, D.C., May 13, 1982.

Hon. ROBERT PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, D.C.

DEAR SENATOR PACKWOOD: As you may recall, on May 10th, I testified before the Committee on Commerce, Science, and Transportation in support of S. 1929, "The Comprehensive Smoking Prevention Education Act of 1981."

I would like to clarify for the record the American Heart Association's formal position on S. 1929 and in particular, on the "rotational" scheme of the bill, as it seems that my testimony has been misinterpreted to mean that we endorsed a "single" warning label as opposed to "multiple" rotational warnings. The line of questioning in which I stated that I would like to see a label with all the health consequences noted on it was not intended to concern itself with the pros and cons of the rotational system but rather with the need for more detailed specific health information so that consumers will have at their disposal all of the information on the health hazards of cigarette smoking.

The American Heart Association, the National Interagency Council on Smoking and Health, the Coalition on Smoking or Health have always considered the rotational scheme of S. 1929 as a critical and essential aspect of the legislation.

On behalf of the American Heart Association I would like to commend you for your leadership and support of S. 1929. The American Heart Association stands ready to assist you and your committee in any way it can in ensuring that this important legislation is enacted into law.

Sincerely,

DONALD C. HARRISON, *President.*

The CHAIRMAN. It would be my intention to run this hearing right through the lunch hour until we finish all of the witnesses, rather than coming back this afternoon.

Again, let me emphasize that your entire statements will be in the record, if you summarize them and limit your case to 5 minutes we would appreciate it. We will take a panel of Mr. Michael Waterson and Mr. Michael Daube. Mr. Waterson, do you want to start?

STATEMENTS OF MICHAEL WATERSON, RESEARCH DIRECTOR, ADVERTISING ASSOCIATION OF ENGLAND, REPRESENTING THE AMERICAN ASSOCIATION OF ADVERTISING AGENCIES, THE AMERICAN ADVERTISING FEDERATION, AND THE ASSOCIATION OF NATIONAL ADVERTISERS; AND MICHAEL DAUBE, DEPARTMENT OF COMMUNITY MEDICINE, UNIVERSITY OF EDINBOROUGH, EDINBOROUGH, SCOTLAND

Mr. WATERSON. I am research director of the Advertising Association, based in London, a member of the British Council for National Academic Awards, a founder editor of the "Journal of Advertising," and the author of more than 80 articles and monographs relating to advertising.

Senator FORD. I have a hard time understanding your English.

Mr. WATERSON. I have a hard time with American.

Senator FORD. I will talk slower, though.

Mr. WATERSON. The function of the Advertising Association, the organization I work for, is to see that the interest of manufacturers, advertising agencies and the media are represented in the United Kingdom and European parliaments and to assure that issues such as the one under discussion today are debated fairly and in the light of all available research evidence. We have worked

very closely with the EEC Parliament, for example, the British Government, and with consumer groups on questions concerning the advertising of alcoholic drink, advertising for children, and the incidence of false advertising claims.

In short, the Advertising Association has gone to considerable lengths to win a position of respect in Europe and it would not jeopardize this position by defending a doubtful cause.

I do believe that there are very good grounds for rejecting the measures proposed in S. 1929.

My reasons derive entirely from the research evidence available which shows that restrictions on cigarette advertising do not have an overall effect on cigarette consumption. Restrictions do, however, slow down the transfer of smokers to low-tar, low-nicotine brands.

The evidence ranges from econometric studies which isolate the impact of factors such as price and health campaigns on consumption through to appraisals of perception of cigarette ads and anticigarette ads, through to comparison studies of different markets. A lot of information can be got from this data, since the position varies greatly from country to country.

For example, in Switzerland there is a great deal of freedom to advertise following a recent referendum. In Sweden advertising is severely restricted and 16 health warnings are rotated on cigarette packs, but no effect of the advertising restrictions or of the introduction of the warnings can be seen in total tobacco consumption. In Norway a massive health campaign has accompanied a ban on advertising; yet, per capita cigarette consumption has hardly varied over the 5 years before the ban or the 6 years since.

In Finland the main effect of an advertising ban had been to slow down the transfer of cigarette smokers to low-tar brands. In Poland, cigarette consumption has risen by 25 percent since a full advertising ban. In Italy consumption has risen by more than 3 percent a year over a 20-year period since the ban on advertising.

Yet in the United Kingdom where cigarette advertising is allowed, cigarette consumption has fallen since 1973. I must at this point reiterate that I am talking about facts. Other claims have been put forward which contradict some of the points I have just made, particularly in relation to Norway and Sweden. Such claims are, however, seriously flawed since they depend on the results of asking people what they do rather than what they do, which is the basis of my testimony.

For example, one recent report by Paul Nordaren, an information officer of Sweden's Anti-Smoking Association, claimed success for his association's policies on the basis of a fall in smoking among men from around 50 percent in 1970 to 31 percent in 1980. Were this claim true, it would of necessity also follow that the consumption of those who smoked throughout this period rose by more than 50 percent, a ludicrous figure.

Mr. Nordren conveniently forgot to note in his report the fact that people often do not tell the truth when answering interviewers' statement about their smoking, drinking and other habits. And antismoking campaigns, whatever else they appear to have done, have significantly increased this tendency. Surveys of smoking behavior are therefore a highly unreliable guide to actual behavior.

Actual behavior as reflected in the national smoking statistics I have supplied to this committee.

The research evidence based on actual behavior shows clearly that the governments that have tried to reduce smoking by restricting tobacco ads have not been successful. The reason is very simple: Cigarette ads do not sell the idea of smoking; cigarette ads sell brands, and most importantly low-tar and low-nicotine brands.

Further evidence of this is seen in data available from Eastern Europe. A complete advertising ban has existed in the Communist bloc countries for several decades. Poland is the exception, with the ban enforced only for the last decade. One would expect that if advertising were a contributing factor to existing smokers to continue to smoke or to nonsmokers starting to smoke, and through these to the growth of total cigarette consumption, one would have seen either no growth or more specifically a decline in consumption in these countries where advertising has not existed for such a long period.

This is not the case. Consumption has outstripped population growth in every one of the Communist bloc countries.

The evidence from econometric analysis backs up this commonsense view that advertising does not influence total cigarette consumption. This explains why health messages on packs do not work. It is relatively easy to introduce a new brand. It is virtually impossible to make people smoke more cigarettes or use more gasoline through advertising. Similarly, modifying the behavior of smokers not to smoke is extremely unlikely to result from the health warnings on packs or in ads.

The fact is that other parameters, such as income and price levels, are far more important. For example, in Britain cigarette consumption fell massively last year due entirely to a price rise, a large price rise.

For these reasons, it is my view that S. 1929 will not contribute to a decline in cigarette consumption. If it is enacted into law it could, however, contribute directly to a fall in the rate of conversion of smokers from high- to low-tar brands. The research evidence shows that countries such as the United States and West Germany, where cigarette advertising is permitted, have experienced a more rapid conversion rate to low-tar cigarettes.

The CHAIRMAN. I will have to ask you, Mr. Waterson, to conclude, please.

Mr. WATERSON. I am sorry, I have been reading slightly slowly because of the accent problem.

Just to finish off with a quotation from one of the most recent studies produced by a major research organization in Germany: "Every country in the world that has tried to reduce smoking by restricting tobacco advertisements has been unsuccessful. The experiment has been tried and has failed."

In all probability, however, if enacted the bill would have unfortunate and unlooked for consequences of a serious nature.

Thank you, gentlemen.

[The statement follows:]

STATEMENT OF MICHAEL J. WATERSON FOR THE AMERICAN ASSOCIATION OF ADVERTISING AGENCIES, THE AMERICAN ADVERTISING FEDERATION, AND THE ASSOCIATION OF NATIONAL ADVERTISERS

I would like, first of all, to thank the Chairman for giving me time to testify today on behalf of the American Association of Advertising Agencies, the American Advertising Federation, and the Association of National Advertisers, on the proposed legislation aimed at reducing cigarette consumption.

As you are aware, the advertising industry is affected by the recommendations in your legislation. We welcome this opportunity to appear before your committee to illustrate the practical effects of such action which may be counter-productive to the very nature of your intent.

Secondly, I would like to introduce myself, and the organization I work for. I am Research Director of the Advertising Association based in the United Kingdom. I have an honors degree in Econometrics, and a masters degree in Marketing.

The Advertising Association has existed for more than 50 years. Its function is to ensure that the joint interests of manufacturers, advertising agencies and the media are fairly represented in the United Kingdom and European parliaments.

Our purpose is to work with governments, to ensure that issues such as the one under discussion here today are debated fairly, and in the light of all available research evidence.

For example, we worked closely with the British government to research exhaustively the incidence of false and misleading advertising claims. In conjunction with leading consumer organizations, and we have worked closely with the European Economic Community Parliament, and Commission, and with leading European consumer groups to research the questions arising about advertising to children.

We have also worked in harmony with leading organizations in Europe concerned with alcoholism, with the Council of Europe, and with many other official and private bodies on questions concerning the advertising of alcoholic drink.

I feel it is also relevant for me to point out that the Advertising Association did not undertake the task of defending the place of cigarette advertising in Europe without first researching the issues involved. We spent two years debating the various points with our members and researching areas where we felt uncertain of our position. If our research had indicated areas of concern I would not be here today.

In short, the Advertising Association would not be prepared to jeopardise its hard-won position of respect in parliamentary circles in Europe, by defending a lost or doubtful cause. I do believe that there are good grounds for rejecting measures such as those proposed in S. 1929.

My reasons derive from the research evidence I have collected in recent years, which shows that restrictions on cigarette advertising do not have any effect on overall cigarette consumption. Advertising restrictions do however slow down the transfer of smokers to low-tar, low-nicotine brands. In my opinion S. 1929 may well result in a decline in cigarette advertising, denying valuable product information, particularly relating to new low-tar brands, to consumers, and therefore having an effect the very opposite of that intended.

The research evidence I have examined ranges from major econometric studies, which attempt to isolate the impact of various factors such as income, price, and health campaigns on cigarette consumption; through to appraisals of consumers' perceptions of cigarette advertisements, anti-cigarette advertisements, and advertisements defending cigarette advertisements; through to comparison studies of the different European markets where many different types of attempts have been made to cut smoking.

In my opinion a great deal of useful information can be derived from this mass of data, since the position varies so greatly from country to country in Europe. For example, in Switzerland there is virtually complete freedom for the manufacturers to advertise where and how they like, following a recent referendum on the issue. In Italy, Norway, Poland and Finland complete bans on cigarette advertising exist. In Norway a massive health campaign has accompanied the cigarette advertising ban. Yet per capita cigarette consumption has hardly varied over the five years before the ban or over the six years since. In Sweden, no less than 16 health warnings rotate on cigarette packs, but no effect can be detected. In Finland the main effect of the advertising ban has been to slow down the transfer of smokers to low-tar brands. In Italy cigarette consumption has risen by more than 70 percent since the ban, and the government is currently thinking of lifting the ban.

Yet in the UK where cigarette advertising is allowed, cigarette consumption has fallen steadily since 1973.

The research evidence suggests clearly that of the governments that have tried to reduce smoking by restricting tobacco ads or by increasing the number of health warnings, none has been successful.

The reason is simple, cigarette ads do not sell the idea of smoking. Cigarette ads sell brands and most importantly, low-tar and low-nicotine brands.

The evidence from properly conducted econometric analysis backs up this common sense view. A large number of such studies have now been conducted in Europe on cigarette and similar markets. None show ads exerting any influence other than at the brand level.

This partly explains why health messages on packs don't work. It is relatively easy to introduce a new brand. It is virtually impossible to make people smoke more cigarettes or use more gasoline through advertising. Similarly, modifying the behaviour of smokers not to smoke is extremely unlikely to result from health warnings on packs or in ads.

In addition to this aspect, health warnings are shown by research evidence to be ignored because they are messages smokers don't want to receive. For example, a study submitted to the United States Federal Trade Commission in 1980 "A Survey of Adolescent and Adult Attitudes, Values, Behaviour, Intentions and Knowledge Related to Cigarette Smoking" contained the following conclusions: "Factual knowledge about the health consequences of smoking was not found to be significantly related to current smoking behaviour. No more differences between knowledge levels of smokers compared with non-smokers were found to be significant at the 0.05 level than were to be expected by chance." Similarly, in the United Kingdom, it is almost impossible to find a smoker who doesn't know the health hazard.

A parallel example is provided by the sale of marijuana. Despite the illegality of this product, widespread publicity as to the dangers of its use, and of course, no advertising, Time magazine reported recently that 25 million Americans are regular users and spend 25 percent more on this habit than do cigarette smokers.

For these reasons, it is my view that S. 1929 will not in any way contribute to a decline in cigarette consumption in the USA. If it is enacted into law, it could contribute directly to a fall in the rate of conversion of smokers from high to low-tar and low-nicotine brands.

The research evidence shows quite clearly that countries such as Finland and Norway with cigarette advertising bans, or countries where advertising is highly restricted, have a smaller proportion of the population smoking low-tar and low-nicotine cigarettes. Countries such as the USA and West Germany where cigarette advertising is permitted have experienced a much more rapid conversion rate to low-tar cigarettes. Any interference with the effectiveness of brand advertising, such as that proposed by S. 1929, will certainly slow down this conversion process.

There is also evidence which suggests that the process of converting smokers to lower tar and nicotine products is more effectively carried out by commercial advertising than by subjecting smokers to health messages. This evidence reinforces my belief both in the ineffectiveness of government health warnings, and in the lack of validity of the theory that a decrease in the amount of effectiveness of brand advertising for low-tar cigarettes could be substituted or offset by an increase in government publicity.

Finally, I would submit that S. 1929, if passed, will set a dangerous precedent. In every country in Europe where cigarette advertising is restricted or banned, the imposition of regulations has signaled the start of fresh demands that the advertising of other product groups should be restricted.

I would suggest that if S. 1929 is successful, it will form the basis for demands for the restriction and regulation of the advertising for many other products in common usage today. As such it strikes at the heart of the market system of the USA.

To conclude, I believe that S. 1929 will not succeed in its aims if passed. To quote one of the most recent studies on the subject, produced by ZAW in Germany, concerning data from 14 countries "every country in the world that has tried to reduce smoking by restricting tobacco advertisements has been unsuccessful." There is, therefore, no reason for the United States Government to experiment in the area. This experiment has already been attempted in Western Europe without success. In all probability however, the bill, if enacted, would have unfortunate and unlooked for consequences of a serious nature, such as discouraging sales of new low-tar products.

I'll be happy to answer any questions, but before I do I would like to request that copies of my report on this subject be inserted for the Record, and made available for members of the Committee. I will be happy to supply the Committee with copies of any other research evidence I have referred to.

Thank you for your time.

The CHAIRMAN. Thank you.

Before we have questions, we will hear from the other member of the panel, Mr. Michael Daube of the Department of Community Medicine, University of Edinburgh. Mr. Daube, if we had problems with Mr. Waterson, we may have double problems with you.

Mr. DAUBE. Thank you, sir. I am in fact an Englishman, so my accent should not be too disastrous.

My name is Michael Daube. I am senior lecturer—associate professor—in the Department of Community Medicine at Edinburgh University. Before moving to Scotland, I was for 6 years director of action on smoking and health, a charity established by the Royal College of Physicians and funded by the British Government.

I am a member of the World Health Organization's expert advisory panel on smoking and health and for several years acted as consultant and advisor to the world health organization at the International Union Against Cancer, of whose special project on smoking I am deputy chairman. I a member of the International Liaison Committee on Smoking and Health and I have worked on smoking in some 29 developing and developed countries.

I wish to argue: First, that smoking can be reduced by measures which do not infringe the liberty of the individual; second, that around the world and particularly in Europe, the broad picture is of governments gradually acting to reduce smoking despite fierce and well-coordinated opposition; and third, that while progress may often be slow, results in several countries are encouraging, particularly with respect to young people.

I have submitted a longer paper for the record with considerable detail to complement my statement.[1]

A seminal Norwegian report stresses that national action on smoking should comprise a three-part program: education and information, legislation, and cessation activities. Norway is only one of several countries to provide ample evidence that, far from being in any way extreme or exaggerated as a response to the problem, S. 1929 is a relatively modest measure.

It is sometimes argued that this and similar measures curtail freedom. We dealt with this argument in the 1979 WHO report. Freedom, we said, should surely be seen not as the freedom of manufacturers to promote a known carcinogen, but as the freedom of a democracy to implement public health measures and the freedom of children to grow up in a society where cigarettes are not heavily promoted as essential to a successful lifestyle.

Were cigarettes a new product, it is inconceivable that they would be advertised or packs sold without the most forceful of warnings. As it is, approximately 37 countries require health warnings on cigarette packs, 27 by legislation. Product information is required in 12 countries, 8 by legislation. Countries with a strong tobacco industry generally have a weak warning. Within Europe, to my knowledge, 12 countries have legislation banning cigarette advertising. Health warnings or product information on packs or advertisements obtain in 15 countries, 12 through legislation.

The Swedish system is unique, but two or three other countries have also introduced a system of three rotating warnings.

[1] The attachments are in the committee files.

How effective are the warnings? Little can be gaged from the impact or lack thereof of weak warnings accepted by the tobacco lobby only on the well-researched assumption that they will have little effect. Strong warnings have normally been introduced both to demonstrate governmental concern and as part of a comprehensive long-term program of which individual components cannot easily be evaluated in isolation, particularly as these programs are aimed primarily at young people and intended to be effective in the long term.

Norway, Finland, and Sweden are of special relevance, and my longer paper gives much more information on each. The Norwegian Tobacco Act included a ban on tobacco advertising, a strong and informative health warning, and was complemented by public education programs.

The Norwegians stress that they seek long-term, not short-term impact, and it is foolish to seek immediate short-term impact. Even so, since the Tobacco Act was publicized and passed, surveys show that the male smoking rate in Norway has dropped significantly, the increase among females has been halted, the public is much more aware of the dangers of smoking, there has been no popular opposition to the act and there has been a marked decline in smoking among school children.

A nationwide survey of smoking habits of school children published in 1981 showed that, while in all age groups smoking rates increased between 1957 and 1975, the year of the act, by 1980 smoking by both boys and girls had fallen to well below 1975 levels. And that fall is reflected in all age groups.

A survey of adult smoking habits in 1976 included a question to test public awareness of the health warnings. Despite the fairly complex warning, daily smokers, who are more frequently exposed to the warnings, scored significantly higher, with many smokers also giving a partially correct answer.

Even in the short term, this warning has clearly had some impact. And this committee will, I am sure, be interested to know that the Norwegian Government has recently declared its intention of adopting a system of rotating warnings based on the Swedish experience.

The Swedish act requires a rotating system of 16 different warnings, together with information on brand tar, nicotine, and carbon monoxide. The act is complemented by a public education program. The warnings have already been changed once and will shortly be changed again.

I have submitted data on trends in Sweden to show that the decline in smoking which started in 1970 has been accelerated. There has also been a sharp decline in smoking among teenage boys and girls, and before and after surveys specifically to evaluate the warnings found that they had increased knowledge and had been in part responsible for people giving up, and had encouraged smokers to switch to lower tar brands.

The Finnish Tobacco Act was passed in 1976 and implemented in 1977. It includes an ad ban, education programs, and health warnings. There was a rapid decline in juvenile smoking. For example: "Two years after the enforcement of the Tobacco Act, the preva-

lence of daily smoking among 14 year olds was only 8 percent, when 6 years earlier it was 19 percent."

My own view is that the next step could well be to provide smokers, through the warning, with advice on methods of giving up.

Pervading the testimony I think, of the tobacco lobby is the brand share argument, the claim developed by tobacco manufacturers since evidence of the danger of smoking surfaced, that their advertising has no impact on the overall size of the market, affects only smokers, has no impact on smokers other than to persuade them to switch brands, and has no impact whatever on children and other nonsmokers.

This argument has been frequently rebutted. My favorite rebuttal of it or comment on it is from one of Britain's leading advertising men who says "It is so preposterous it is insulting," while the present Prime Minister of Ireland, Charles Haughey, has described it as "useless, idle, silly and nonsensical."

In conclusion, sir, I can reassure this committee that European and other international experience in smoking control supports wholly the premises upon which this bill is based. Comprehensive smoking control programs have achieved encouraging results in the short term, are particularly influential in reducing smoking among children, do not infringe individual liberty, do not cause smokers to smoke high-tar brands, and are acceptable to the public at large.

It is to be commended because it is based on solid research, reflects the experience of other countries, and looks not to a single measure in isolation, but legislation complemented by an education program.

A 19th century British Prime Minister Benjamin Disraeli said that the first concern of any government is the health of the people. This act will give a lead not only to your country, but also to the governments of many other countries.

I congratulate the proposers of this act for their initiative, which can only be beneficial to the public health and to young people in particular.

I simply want to make the point that it is sometimes argued that the public is fully informed about the real health consequences of smoking. Smokers may be broadly aware that the health authorities consider smoking to be harmful, but they have little concept of the extent of the risk, the nature and range of the diseases involved, the economic and social cost, the certainty of the evidence, or that a smoking-related disease may strike them rather than someone else.

Smoking is massively our largest avoidable cause of death and disease, and that is why exceptional action is required on this topic.

Thank you, sir.

[The statement follows:]

STATEMENT OF MICHAEL DAUBE, SENIOR LECTURER, DEPARTMENT OF COMMUNITY MEDICINE, USHER INSTITUTE, EDINBURGH, SCOTLAND

1. It is a privilege to have the opportunity of testifying before this committee in support of the Comprehensive Smoking Prevention Education Act (S. 1929). Those of use who are active in campaigning to reduce smoking welcome the important initia-

tive under discussion today both for its potential impact in this country and as a signal that legislators in the United States share the concern of their counterparts elsewhere to reduce the appalling and preventable toll of death and disease caused by smoking.

2. My name is Michael Daube. I am Senior Lecturer in Health Education in the Department of Community Medicine at the University of Edinburgh in Scotland, where I am also actively involved with the work on smoking (and other issues) I was for six years Director of Action on Smoking and Health (ASH), a charity established in 1971 by the Royal College of Physicians of London and funded by the Department of Health and Social Security, a UK Government Department. I am now a member of the Council of ASH.

3. I am a member of the World Health Organization's Expert Advisory Panel on Smoking and Health, and I have for several years acted as a consultant and expert adviser on smoking to WHO. I was an adviser to the 1978 Expert Committee on Smoking Control, and in particular drafted the chapter on Legislation and Restrictive Measures in the 1979 WHO Report, "Controlling the Smoking Epidemic". I am a member of the 1982 WHO Expert Committee on Smoking Control Strategies in Developing Countries, and I have worked in a variety of capacities with both WHO headquarters in Geneva and the WHO Regional Office for Europe.

I am a consultant on smoking and health for the International Union against Cancer (UICC), and Deputy-Chairman of the UICC's Special Project on Smoking Congrol, which has been extremely active internationally. I am joint editor of the UICC report, "Guidelines for Smoking Control".

I am a member of the International Liaison Commitee on Smoking and Health, and have worked on smoking and health in some twenty-nine developing and developed countries. I have researched and published widely on smoking and health issues.

4. I am concerned to achieve a reduction in cigarette smoking simply and solely because it is the largest avoidable cause of death and disease in the western world, and increasingly a major factor in preventable disease in developing countries. I am moved by no animus against smokers: indeed, the reverse is true. Surveys in the UK and the US consistently show that around two-thirds of smokers want to give up: like many others in my field, I have spent much of my time helping would-be non-smokers. A recent and meretricious publication from the US Tobacco Institute is entitled, "Answers To The Most Asked Questions About Cigarettes", but—scarcely surprisingly—makes no mention of the question that is in my experience the most asked question of all: "how do I stop smoking?"

5. I do not propose to set out here the case on health grounds for serious action on smoking: this has been covered in the Surgeon Generals' Reports, as well as innumerable other papers and reports. I shall also not expound in detail the case for health warnings on cigarette packs and advertisements: this has been admirably set out in the FTC Staff Report on the Cigarette Advertising Investigation.

6. I wish to present two themes: first, that smoking can be reduced by comprehensive programmes which do not infringe the liberty of the individual—prohibition is no part of my case; and second, that around the world—and particularly in Europe—the broad picture is of Governments gradually acting to reduce smoking, albeit in the face of fierce carefully co-ordinated pressure and opposition from the international tobacco industry. Progress is often slow, but results in several countries are encouraging, particularly with regard to smoking habits and attitudes among young people. I would, with the greatest of respect, suggest to you that in terms of governmental action to reduce smoking the United States—a country which has taken the lead on so many health-related issues—is lagging behind much of the developed world.

7. As a result of my experience with WHO and UICC and in many developing countries I would add a further reason for welcoming the measure under discussion. Companies based in the U.S. and the UK are, with extraordinary cynicism, sparing no effort to ensure that the smoking epidemic spreads to developing countries which have still not controlled their problems of infectious and nutritional disease. Those of us who are called in to advise on smoking control programmes in these countries are often met by the question, "but what is happening in your country?": the Comprehensive Smoking Prevention Education Act would give an invaluable lead to the governments of many developing countries.

8. It would be naive to suggest that any single measure or combination of measures could overnight bring about an end to smoking. The major international health agencies—such as WHO and UICC—have recommended a comprehensive programme (appendix 1). It is inevitable that in many countries parts of the pro-

gramme will be gradually phased in: it would be absurd to oppose introduction of a single component on the grounds that it alone will not achieve instant miracles.

9. The Norwegian Tobacco Act was introduced on the basis of a seminal report ("Influencing Smoking Behaviour") which stressed that national action on smoking must to be effective consist of a three-part programme: education and information, legislation, and cessation (help for would-be quitters). The Norwegian Tobacco Act was passed in 1973 and implemented in 1975 as a result of action taken following publication of the 1964 U.S. Surgeon General's Report. Norway is only one of several countries to provide ample evidence that far from being in any way an extreme or exaggerated response to the smoking problem, the Comprehensive Smoking Prevention Education Act is a relatively modest measure likely to be opposed seriously only by the tobacco lobby. Even in Norway, where the tobacco industry is not powerful, there was some industry opposition to the Tobacco Act. Dr. Kjell Bjartveit, a former Minister for Health and currently Chairman of the Nationl Council on Smoking and Health, points out, "I would be much more worried if this had gone through without any resistence". "But", he continues, "I think the opposition had an effect—for us! It helped to draw public attention to the Act and to the dangers of smoking."

10. With unparallelled irresponsibility the tobacco industry still seeks not merely to deny the evidence on smoking and disease, but even to persuade the public that smoking is not indeed a potentially lethal habit. The tobacco industry and its agents also inevitably oppose any actoin to reduce smoking: it would be surprising if this were not so, and the strength of the oppostion to S. 1929 is convincing testimony to its likely effectiveness. The tobacco companies' arguments are so persuasively misleading as were their advertisements in the past, all the more so because they use half-truths and untruths which can appear convincing in the absense of a point-by-point rebuttal.

To take one example, a boolket by Mr. M. J. Waterson (see also para. 31) entitled "Advertising and Cigarette Consumption", published by the (UK) Advertising Association in 1981 makes much of an increase in cigarette sales in Italy since the 1962 cigarete advertising ban there. The report fails to mention that:

(i) The Italian advertising ban was introduced not for health reasons, but to protect the State Tobacco Monopoly against international companies with large advertising budgets;

(ii) There has been no complementary public education programme on the dangers of smoking: indeed, health education in Italy is on many issues almost nonexistent;

(iii) Italian sales figures are notoriously unreliable: much tobacco sold in Italy is smuggled in;

(iv) The advertising ban is not implemented. Fines—when imposed—are small: tobacco companies have in fact treated the law with disregard, and advertise regularly in Italy!

Similarly, the same publication cites the Polish experience—without referring to the vast cultural differences between countries where, as in the UK and the U.S., advertising is almost all-pervasive, and those such as Poland where there is in any case very little advertising, where health education is decidedly limited, and where the absence of consumer goods results in the public having little else on which to spend its money.

Mr. Waterson cites France as having a long-term advertising ban: this is simply untrue. He writes of Norway that, "the constant effect of the advertising ban since 1975 has had no discernible effect on consumption". The Norwegian authorities stress both that the decline in smoking dates not from 1975 but from the period during which the Tobacco Act was debated and publicised and that they seek primarily a long-term effect. Nonetheless, smoking is of course on the decline in Norway both among adults and—more importantly—among children. I attach (paras. 28–30; Appendix 2) further data confiming this.

11. Like many of my colleagues, I have given very careful thought to the tobacco industry's suggestion that we seek to curtail freedom. My conclusion is that set out in the 1979 WHO report: "Freedom should be seen not as the freedom of the manufactuer to promote a known health hazard but rather as the freedom and ability of society to implement public health measures.

It will be many years before final "proof" of the value of smoking control measures is available, and the means and extent of implementation, as well as the combination of measures used, are likely to vary so much from country to country that it may even then only be possible to assert, as one can now, that the case for the introduction of such measures is overwhelming, that they make no infringement on individual liberty beyond what is acceptable in an organised society, that there is good

evidence from around the world to indicate likely effectiveness, that they can at worst do no harm, and that any government that waits for "proof" of effectiveness, bears the responsibility of knowing that its inactivity has helped to promote premature death and disease."

I would add that I am particularly concerned also for the freedom of young people to grow up in a society where cigarettes are not heavily and misleadingly promoted as an essential adjunct to successful lifestyles. The onus of proof should not be with the health lobby: if the tobacco industry wishes the freedom to continue promotion of a known carcinogen the onus of proof should be on the cigarette companies and their agents to prove beyond doubt that cigarette advertisements have no impact whatever on children and non-smokers, and have no effect on smokers other than to reduce the damage to their health and persuade them to give up.

12. It has been argued that any product freely sold should be freely advertised. Even if this ethically dubious argument were accepted, it should be noted that cigarettes are in fact not freely sold: many legislatures have already rightly determined cigarettes to be so dangerous that they may not be sold to minors.

13. Opposition on the basis of "freedom" to S. 1929 is reminiscent of opposition to the great public health legislation of the nineteenth century: in defence of a similarly eccentric notion of "freedom" the London Times thundered in 1851, "We prefer to take our chances of cholera and the rest than to be bullied into health . . . every man is entitled to his own dungheap".

14. It has been argued that the anti-smoking campaign is merely the first part of a domino theory approach: today tobacco, tommorrow alcohol, and milk chocolate the day after. I should make my own position clear. Cigarettes are pre-eminent as our largest avoidable cause of death and disease: their use (as opposed to abuse) is potentially harmful and addictive, and they are initially consumed (and consumed regularly) by children too young to take account of all the health consequences. I suspect that there may be a similar, albeit somewhat different, case for action on alcohol advertising, but there I would stop. I am not anti-advertising: indeed, I believe that health campaigns should be enabled to advertise much more.

15. Few now seriously suggest that there should be no education about the dangers of smoking. Even the US Tobacco Institute in its booklet "Answers To The Most Asked Questions About Cigarettes" asserts that, "Young persons should be urged not to smoke until and unless they have enough years, knowledge, and experience in life to make mature and informed decisions". A genuine belief in this laudable objective would of course lead the Tobacco Institute to support S. 1929. Regrettably, however, far from being "urged *not* to smoke" young people are subjected to a bombardment of messages promoting cigartette smoking as a desirable and apparently healthy activity. When my 14-year-old nephew in Massachusetts picks up his sports magazines he can be sure that they will be riddled with cigarette advertisements. The association with sporting success is indeed one of the most insidious and successful methods adopted by the tobacco industry to counter advertising curbs and negative publicity. On the basis of our experience in the UK (where advertisements for and at cigarette-sponsored events will now carry health warnings in recognition that they are indeed cigarette advertisements) I would recommend that any measures curbing cigarette advertising should also be applied to advertising at and for cigarette-sponsored sporting and artistic events.

16. I believe that if smoking and health campaigns have been unsuccessful in one area above all others it is in the failure to convey adequately the extent of the smoking problem. To set the smoking problem in context, two comparisons from the UK may be helpful:

(i) Each year in Britain cigarettes kill approximately four times as many people as the total killed by drink, drugs, murder, suicide, road accidents, rail accidents, air accidents, poisoning, drowning, fires, falls, snakes, lightning, and every other known accidental cause of death all put together.

(ii) During the entire Second World War (3rd September 1939–14th August 1945) total UK casualties amounted to 355,910 (military and merchant navy: 295,315; Civilians: 60,595). At the most conservative estimates, in a mere seven years more Britons die prematurely as a result of smoking than were killed during the Second World War.

That is the real magnitude of the smoking problem.

17. The FTC Staff Report and other data demonstrate clearly that the public is both disturbingly under-informed about the health consequences of smoking and unlikely to perceive the risk in personal terms. There is good evidence to show that in the US as in the UK smokers may be broadly aware that the health authoritie consider smoking to be harmful, but they have little conception of the extent of the risk, of the nature or range of diseases involved, of the social and economic conse-

quences to society at large, and that a smoking-related disease may strike them—rather than somebody else. It would take a singularly cynical approach to assert that the public is adequately informed about the dangers of smoking.

18. The perspective I can provide from other countries, and from Europe in particular, is one of gradual progress in smoking control and smoking control legislation. There is universal opposition to such progress from the tobacco industry, but this opposition is clearly at its strongest in countries such as the US and the UK where the industry is particularly powerful. (All of the world's seven premier tobacco companies are based in the US and the UK).

Progress is always step-by-step. Each step is challenged on the grounds that:

(i) Smoking is not harmful to health;

(ii) The tobacco industry is responsible and will act voluntarily to obviate the need for legislation;

(iii) The tobacco industry is beneficial to the economy;

(iv) The proposed measure will infringe essential freedoms;

(v) The proposed measure will be effective in isolation.

In almost every country where serious governmental action is threatened the tobacco industry offers a voluntary agreement, or engages in protracted negotiations with government, or adopts both courses. Voluntary agreements are invariably weak, loosely phrased, minimally policed, and ineffective. Even where such agreements or partial legislation (e.g. on selected forms of advertising) obtain the cigarette manufacturers have proved adept at circumvention, as with the move into sports sponsorship to replace TV advertising. The industry has proved equally adept at drawing out its negotiations with governments, often for many years, and will understandably not agree voluntarily any measure that might reduce sales.

19. Cigarette smoking has been gradually declining in several countries, but the decline has generally been very slow, and confined primarily to middle-class middle-aged man. Around the world children are starting to smoke at ever earlier ages, and the public is understandably confused by the apparent conflict between governmental posture and policy: on the one hand ardent rhetoric about the dangers of smoking, on the other hand lack of serious action and a continuation almost unimpeded of tobacco promotion. The gradual decline in smoking in countries such as the UK is more than welcome, but it should not be used to obscure the fact that with greater governmental commitment to education and legislation the decline might have been much more impressive.

20. Approximately 37 countries require health warning on cigarette packets, 27 by legislation. Product information (tar, nicotine, carbon monoxide) is required in 12 countries, 8 by legislation.

21. Within Europe 12 countries have legislation banning cigarette advertising: Bulgaria, Czechoslovakia, Finland, East Germany, Hungary, Iceland, Italy, Norway, Poland, Rumania, the USSR, and Yugoslavia.

Health warnings and/or product information on packs or advertisements obtain in 15 European countries. In 3 (Denmark, West Germany, and the UK) the information appears through a voluntary agreement; in the rest (Austria, Belgium, Bulgaria, Czechoslovakia, Finland, France, Hungary, Ireland, the Netherlands, Norway, Sweden, and Switzerland) there is legislation (the Austrian warning is to be introduced from July, 1982).

The Swedish system of sixteen rotating warnings is unique. The UK, England, and Ireland have recently introduced systems entailing three warnings: implementation has taken time, none of these three systems has been fully evaluated.

22. If cigarettes were freshly introduced onto the market it is inconceivable that any advertising would be permitted, or that any packaging would be sold other than under the strictest of controls and with prominently placed and forceful warning notices. Instead, the health warnings in most countries where the tobacco industry is strong have in common that they are:

(i) Weak, omitting any mention of death or factual information about diseases caused by smoking;

(ii) Small, badly placed, and scarcely noticeable, often in direct contrast with governments' original intentions;

(iii) Unchanging, so that the smoker becomes accustomed to overlooking them;

(iv) Impersonal—generalising about smokers, and not directed to the individual smoker;

(v) Complicated by unnecessary verbiage such as "HM Government Health Departments' Warning . . ." or "The Surgeon General has determined . . .";

(vi) Omitted from many advertisements that are in fact clearly intended to promote cigarettes (e.g. advertisements at and for sponsored events).

23. From 1971 to 1981 all UK cigarette packs and advertisements carried the notice, "Warning by HM Government. Smoking Can Damage Your Health" or "Packets Carry a Government Health Warning": this was complemented from the late 1970s by a statement as to whether the brand was "Low Tar", Low-to-Middle Tar", etc. Since 1981 a system of three (rotating) warnings has been introduced. The new warnings were agreed only after lengthy negotiations with the industry, and are less than compelling: the tobacco industry has consistently refused to accept the Government's own warning which appears on official tar and nicotine tables stating unequivocally, "DANGER: CIGARETTES CAUSE CANCER, BRONCHITIS, HEART DISEASE".

24. The 1979 WHO Report pointed out, ". . . Although voluntary agreement would in normal circumstances be preferable to legislation, experience has shown—as with tobacco promotion—that tobacco manufacturers will not in general voluntarily agree to warnings that reflect adequately the views of health authorities and that they will make every effort to minimise the impact of such warnings".

25. Health warnings should not, as has been stressed above, be seen as more than a single component in a comprehensive programme, but they serve the following purposes:

(i) To draw public attention to the dangers of smoking;

(ii) To demonstrate a government's commitment to the smoking and health campaign;

(iii) To complement health education programmes;

(iv) To provide product information, reflecting where appropriate changes in product content or scientific knowledge.

It is manifest that none of the above objectives can be attained if health warnings are unchanging and use words acceptable to cigarette manufacturers.

26. The impact of legislation on health warnings, as of other smoking control legislation, can be expected to have four phases of effectiveness:

(i) Publicity generated when the intention to legislate is announced by government or legislators;

(ii) Publicity generated while the measure is being discussed by legislative assemblies;

(iii) Immediate impact of the legislation (and concomitant publicity) when implemented;

(iv) Long-term effect of legislation as part of a comprehensive smoking control programme.

27. As indicated above, it is simplest to divide countries into two categories: those with a strong industry, and those with a weak industry.

(i) Where there is a strong industry, warnings normally imply doubt, using words such as "can" and "may", make no mention of death or disease, and convey little urgency. For example:

Japan: For the sake of your health, do not smoke too much.

Malaysia: Warning by the Government of Malaysia: smoking can be a health hazard.

Mexico: The Health Code has determined: this product may be harmful to health.

New Zealand: Government Warning: smoking can endanger your health.

Canada: Health and Welfare Canada advises that danger to health increases with amount smoked—avoid inhaling.

UK: one of: Danger: Government Health Departments' Warning. Cigarettes can seriously damage your health. Smoking may cost you more than money.

The more you smoke, the more you risk your health.

Think first—most doctors don't smoke.

Think about the health risks before smoking.

(ii) Where the industry is weak, stronger warnings have been introduced. For example:

Kuwait: Smoking is the main cause of cancer, lung, heart, and artery disease.

Ireland: Smokers die younger—Royal College of Physicians, Cigarettes can cause cancer—Government Warning. Smoking seriously damages your health—Government Warning.

Iceland: Warning: cigarette smoking can cause lung cancer and heart disease.

Finland: Smoking is dangerous to your health—National Board of Health. Tobacco is dangerous to your health—National Board of Health. You'll breathe easier if you don't smoke—National Board of Health.

Norway: Warning from the Directorate of Public Health: Daily cigarette smoking endangers health. It may lead to serious diseases, including lung cancer and coronary heart disease. The risk increases with consumption and is greater when smoking begins at an early age. Giving up smoking reduces the risk of disease.

Sweden. 16 rotating warnings, changed regularly. For example: 9 out of 10 patients with cancer of the oesophagus are smokers. National Board of Health and Welfare. Heart attacks before the age of 50 nearly always occur in smokers. National Board of Health and Welfare. Pregnant women! Smoking during pregnancy may harm your child. National Board of Health and Welfare.

28. How effective are health warnings?

(i) It is virtually impossible to evaluate the effectiveness of health warnings in isolation. Little can be gauged from the impact (or lack thereof) of weak health warnings which have been accepted by the tobacco industry on the assumption that they will be ineffective. Strong warnings have normally been introduced as part of a comprehensive long-term program. Individual components of such programs cannot easily be evaluated in isolation. Further, comprehensive programs are intended to be effective primarily in the long-term, and are aimed particularly at young people.

(ii) Three countries are of particular relevance.

1. NORWAY

The Norwegian Tobacco Act was implemented in July, 1975, following extensive Parliamentary discussion and public debate. The act comprises:

(i) A total ban on all advertising of tobacco products

(ii) A requirement that all packs are labelled with a symbol and text pointing out the dangers of cigarette smoking

(iii) A ban on the sale or handing over of tobacco products to those under sixteen

(iv) Permission for the Ministry to issue regulations concerning content (i.e. tar, nicotine, CO yield, etc.), weight, filters, etc.

The Act was complemented by a public education programme. In any attempts to compare the impact of the Norwegian legislation with proposed legislation elsewhere it should be noted that the level of advertising banned in Norway was much lower than that obtaining in the U.S. or UK. Norway has never experienced the kind of massive indirect cigarette advertising (sports sponsorship, etc.) that prevails in many other countries. Even direct advertising before the advertising ban was less extensive in Norway: in 1974 (the year before the Tobacco Act) direct cigarette advertising expenditure (at 1974 values) per inhabitant was:

Norway—$0.69.

UK—$1.00.

U.S.—$1.14.

Appendix 2 presents information on Norwegian trends and conclusions, including a paper by Dr. Kjell Bjartveit dealing with some of the tobacco lobby's arguments.

In brief, it may be concluded that since the Tobacco Act was passed by the Storting:

(i) The male smoking rate in Norway has dropped significantly

(ii) The increase among females has been halted

(iii) There has been a marked decline in smoking among schoolchildren

(iv) The public is much more aware of the dangers of smoking

(Following tax increases implemented after much of the attached data was collected, a further sustantial decline may be anticipated.)

A survey of smoking habits in 1976 included a question to test the public's awareness of the health warning. The Norwegian warning, introduced the previous year, might be thought lengthy and complex. However, 44 percent of the sample gave a fully correct answer (specifying both lung cancer and coronary heart disease)—but daily smokers, who were more frequently exposed to the warning, scored significantly higher at 52 percent, with a further 22 percent of smokers giving a partially correct answer. Even in the short term the warning has clearly had some impact.

A nationwide survey of smoking habits among schoolchildren aged 13–15 was published in 1981, and compared with those of previous years. In all age groups the prevalence of daily smoking had risen between the 1957 and 1963 surveys, and again between 1963 and 1975, the year of the Tobacco Act. The 1980 survey showed that in all age groups the percentage of daily smokers had fallen well below 1975 levels amongst both boys and girls.

The Norwegian Government has recently declared its intention of changing the health warning and adopting a system of rotating warnings, much as in Sweden. This should be implemented in 1982–3.

2. SWEDEN

The Swedish Tobacco Labelling Act was passed in December, 1975 and introduced on January 1st, 1977. As a result of the Act, cigarette packs carry sixteen different health warnings, together with information on brand tar, nicotine, and carbon mon-

oxide yield. Introduction of the Act has been complemented by a public education programme and some curbs (although not a ban) on tobacco advertising and promotion. The sixteen warnings have already been changed once, and will shortly be changed again.

Appendix 3 presents data on smoking trends in Sweden. Annual nationally representative surveys of smoking habits show that the decline in smoking (which started in 1970) has been accelerated, and that the percentage of adult smokers has fallen in both males (1976: 43 percent; 1980: 31 percent) and females (1976: 34 percent; 1980: 26 percent). Even more important, there has also been an apparent decline in smoking among children.

	13 year olds		15 year olds	
	Boys	Girls	Boys	Girls
1971	14	16	41	47
1974	10	12	31	45
1977	9	11	25	40
1979	6	8	21	34
1980	5	6	21	33

The number of cigarettes sold has remaind stable, but tobacco sales by weight have fallen markedly. The explanation for this would appear to be that during the 1970s there was a strong shift by smokers to small, lower tar brands, perhaps smoking more to maintain tar and nicotine "diets".

The Swedish system was ingeniously evaluated. "In 1976 (before the warnings were introduced) and again at the end of 1977 (after the system had been in efect for nearly a year) the National Smoking and Health Association of Sweden interviewed a representative sample of 2000 people with identical questions on the system or warnings. Comparing the responses in 1976 and 1977, the Association concluded the warning labels had not only been noticed and understood, but had had an impact on people's knowledge. The study also found that the Swedish labelling system had been responsible, at least in part, for the increase in the number of people who had stopped smoking, and had encouraged smokers to shift to brands yielding lower amounts of harmful substances. . . . A subsequent study by the National Smoking and Health Association of Sweden in 1978 confirmed these findings. This later study also found that the system of rotation warnings had influenced the smoking behaviour of the Swedish population beneficially both by contributing to an increase in the number of people who had stopped smoking and by encouraging remaining smokers to change to brands yielding lower amounts or less harmful substances. The consistent decline in the percentage of daily smokers in Sweden in further evidence of the effectiveness of the Swedish anti-smoking campaign, of which the labelling system is an important element." (from Roemer, R., unpublished report.

3. FINLAND

The Finnish Tobacco was passed into Parliament on August, 1976, and came into force on March 1st, 1977. The Act included a total ban on all forms of tobacco advertising and promotion, complemented by health warnings, education programmes, and measures to protect the rights of the non-smoker. The Act also mandated that 0.5 percent of revenue from tobacco duty should be spent on health education on smoking (this portion of the Act has yet to be fully implemented). Papers from Finland are attached (Appendix 4). Rimpela and Eakola, who have been responsible for comprehensive and detailed studies of smoking among young people in Finalnd, comment, "When we compare the smoking rates in the 1973 and 1979 studies, the conclusion is that the decrease has been very remarkable in all age groups. For example, two years after the enforcement of the Tobacco Act the prevalence of daily smoking 14 year-olds was only 8 percent when six years earlier it was 19 percent". Rimpela and Eskola point out that "there is explanation for this rapid decline in juvenile smoking in Finland. . . ." (health education and price played important roles) . . . but, "The Ministry of Health and Social Affairs published the first draft of the Tobacco Act in 1975. Since then massive publicity surround the policy of the Government and the Tobacco Act. This social process changed public opinion of smoking and supported health education in schools, health care systems and public organisations . . ."

29. Thus, it is clear that the Scandinavian Tobacco Acts are working: smoking is declining among adults, and even in the short term has declined markedly in children. The most encouraging tribute to the impact of such legislation has come from two senior executives in the Norwegian tobacco industry. Speaking in October 1980, at the launch of a marketing campaign for chewing gum, they said; "Since the introduction of the ban on tobacco advertising, new thinking has become a necessity. With reference to the forceful anti-smoking campaign we have to take into account that there will be considerably fewer new smokers, and that in the long run the consumption will probably go down".

30. No single health warning or system of warnings can be ideal for all countries. It is clear, however, that the best system thus far devised entails a series of clear, well-presented, sizeable, personalized, rotating health warnings, stressing the harmful health consequences and the benefits of giving up. My own view is that the next step could well be to use the warning to provide smokers with advice on methods of giving up. It has also been suggested that warnings could be printed on individual cigarettes: this might provide a useful means of ensuring that the warning is frequently seen.

31. No one seriously involved in smoking and health activities—not even the Norwegians or the Finns—would claim that any country has yet implemented a programme that fully meets the requirements of the recommendations set out in the 1979 WHO report. In most countries the power of the tobacco lobby has resulted in programmes falling far short of these recommendations although they have been endorsed by these countries at the World Health Assembly. The tobacco industry then argues that because an emasculated programme has been "unsuccessful" it logically follows that a comprehensive programme would be unsuccessful. Given also that in most countries health education programmes are grotesquely under-funded in comparison with the thousands of billions of dollars spent worldwide on advertising and promoting cigarettes, it is less than sensible to claim that limited anti-smoking measures are "ineffective: because they fail instantaneously to achieve massive shifts in human behaviour."

32. It would be impossible to summarise briefly the vast range of education programmes that have been directed, using almost every possible medium and approach, towards communities and specific target groups from schoolchildren to pregnant mothers. Health education is in some ways still in the horse-and-cart era, and careful evaluation is all too rare. Nonetheless, some school education programmes are now showing some promise, as are programmes aimed at specific target groups and discrete communities (e.g. the North Karelia Project in Finland). While consistent editorial coverage in the media depends on the existence of active compaigners, most countries have some experience of mass media anti-smoking advertising campaigns. It should be noted, however, that funds for such campaigns are invariably modest: even in the UK, where all anti-smoking advertisements are Government-funded, total such expenditure amounts to approximately one million pounds per annum—as opposed to expenditure annually of one hundred times that amount on tobacco advertising and promotion. Pre-testing and evaluation of public education activities show that many have been effective in the short term, and have the potential to be effective in the long term also but lack the adequate funding that is the prerequisite of any successful advertising campaign. It is also the common experience of those reponsible for conducting anti-smoking campaigns that their work would be considerably eased by the absence of tobacco promotion and with the backing of firm governmental action. Anti-smoking campaigns have succeeded primarily among the better-educated; for further progress additional measures such as health warnings, and advertising ban, etc., are clearly required.

33. I have recently seen the evidence submitted before the House Subcommittee on Health and the Environment of the Committee on Energy and Commerce by Mr. Michael Waterson of the UK Advertising Association, testifying on behalf of the American Advertising Industry (March 5th, 1982).

I am perturbed that misleading testimony should have been presented in the United States Legislature from the UK, albeit by a spokesman for the tobacco lobby whose previous publications have been misleading (see para. 10), and I regret that it should be necessary to correct this.

Some of the half-truths in Mr. Waterson's testimony have been covered elsewhere in this paper. A full rebuttal would be extremely lengthy. I would wish to deal here with a further six points.

(i) Mr. Waterson claims that advertising restrictions slow down the transfer of smokers to low-tar brands. This conclusion is reached only by highly selective comparisons, by distortions of the evidence, and by making unwarranted assumptions as to (a) the effect of advertising on the move to lower-tar brands, and (b) possible de-

velopments in countries with advertising bans had they not banned cigarette advertisements.

A ban on advertising can of course be complemented by a low-tar programme (this is, I understand, presently under consideration in Norway).

Further, it is my experience that in developing countries—where the cigarette market is often controlled by companies based in the US or the UK—cigarette advertising issued not to lower tar diets but to promote brands with tar yields that would be considered unacceptably high in the manufacturers' home countries.

In any eventuality, S. 1929 can only contribute toward the low tar programme, for it ensures that smokers will be provided with full information on tar, nicotine, and carbon monoxide levels.

(ii) Mr. Waterson's references to Norway, Finland, and Sweden are misleading: see paragraph 28 above.

(iii) "In the UK cigarette advertising is allowed, but consumption dropped by 15 percent last year due to a very large price increase": regrettably, price increases do not in general keep pace with inflation, and in Britain cigarette prices have fallen steadily against the cost of living. The health lobby welcomes tobacco tax increases, but surveys show that C. 50 percent of smokers giving up after a Budget are triggered by the increase to do so for health reasons. Recent Budgets have helped to reduce smoking: nonetheless, 42 percent of males and 37 percent of females are still cigarette smokers. The impact of a Budget should not hide the reality that further components of a comprehensive smoking control programme would have a synergistic effect. This is particularly important in the UK, as children are starting to smoke at ever earlier ages: one third have tried a cigarette by the age of nine.

(iv) ". . . health messages on packs don't work". This sweeping, ill-founded and scientifically unsupportable statement is perhaps the most important statement in Mr. Waterson's testimony with regard to S. 1929.

It is true that weak health warnings—those accepted voluntarily by the tobacco industry—cannot be expected to "work". Where strong warnings have been introduced, however, the evidence points in only one direction. Further, it is manifest that smokers are affected by publicity about the dangers of smoking: otherwise there would not be 9 million ex-smokers in the UK, and upwards of 30 million ex-smokers in the US.

(v) ". . . In the United Kingdom, it is almost impossible to find a smoker who doesn't know the health hazard . . .": this sweeping statement is again contradicted by the evidence. Many smokers are, as has been stressed in this paper and in the FTC Staff Report, unaware of the range of health problems caused by smoking. In the UK, for example, only 54 percent of adults are aware of the link between smoking and heart disease.

(vi) ". . . In every country in Europe where cigarette advertising is restricted or banned, the imposition of regulations has signalled the start of fresh demands that the advertising of other product groups should be restricted . . .". This committee will no doubt be aware that cigarettes are different from any other products currently on the market. They are dangerous even in small doses. They are addictive. They kill well over half a million Europeans prematurely each year, and some 300,000 Americans. Action to curb an epidemic of this kind is not the first step on the road to totalitarianism, but a vital public health measure.

Pervading Mr. Waterson's testimony and publications is the "brand-share" argument—the claim developed by tobacco manufacturers since evidence on the dangers of smoking surfaced that their advertising has no impact on the overall size of the market, affects only smokers, has no impact on smokers other than to persuade them to switch brands, and has no impact whatever on children and other non-smokers. This argument has been frequently rebutted, but is still frequently presented, presumably in the hope that it will through repetition gain a spurious credibility. One of Britain's leading advertising men (who does not handle cigarette accounts), David Abbott, has said of the brand-share argument, "As an argument, it's so preposterous, it's insulting"; while the present Prime Minister of Ireland, Charles Haughey, has described it as "useless, idle, silly, and nonsensical". Advertising for tobacco does not, of course, differ so notably from that for every other product. A case in point is Kenya where until very recently a single company, British American Tobacco, had a monopoly of sales—yet was reportedly the country's fourth largest commercial advertiser.

34. In conclusion, I can reassure this Committee that European and other international experience in smoking control supports wholly the premises on which S. 1929 is based. Comprehensive smoking control programmes have achieved encouraging results in the short term, have been particularly influential in reducing smoking among children, do not infringe individual liberty, do not force smokers to smoke

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high tar brands, and are acceptable to the public at large. Individual measures implemented in isolation—such as tax increases or promotional curbs—have sometimes contributed to a decline in smoking or a declining rate of increase, but are invariably far less effective than they would be as part of a comprehensive programme. The tobacco industry has opposed any such legislation both because it will affect smoking rates and because the decision to implement such legislation demonstrates yet again governmental recognition of the magnitude of the smoking problem. Countries where only measures acceptable to the tobacco industry have been implemented have been uniformly unsuccessful in reducing smoking.

S. 1929 is to be commended because it is based on solid research, reflects the experience of other countries, and looks not to a single measure in isolation but to legislation complemented by a public education programme.

A nineteenth-century British Prime Minister, Benjamin Disraeli, said that, "the first concern of any Government is the health of the people": this Act will give a lead not only to your country but also to the Governments of many other countries. I congratulate the proposers of this Act for their initiative which can only be beneficial to the public health.

The CHAIRMAN. I am curious. Mr. Waterson, Mr. Daube's statement says in essence that the law in Italy is flagrantly violated and that there is tobacco advertising. Is that true?

Mr. WATERSON. I am not aware of the precise situation in Italy. I do know that they are considering allowing cigarette advertising again, after a 20-year ban.

The CHAIRMAN. Well, it is not a question of allowing cigarette advertising. Mr. Daube's statement says that the advertising ban is not implemented, fines, when imposed, are small, and tobacco companies have in fact treated the law with disregard and advertise regularly in Italy.

Mr. WATERSON. I am not aware of the situation. It may be cross-country advertising which he is referring to, which is a problem in Europe.

The CHAIRMAN. Mr. Daube.

Mr. DAUBE. Yes. In Italy the advertising ban was introduced in 1962 to protect the state tobacco monopoly, not for health reasons. And it is always a misleading example to cite, because in Italy——

The CHAIRMAN. Was the local tobacco monopoly allowed to advertise?

Mr. DAUBE. No. I hate to say this, sir. It was the American companies they were particularly worried about. They wanted to get rid of that advertising, which was competing with the state tobacco monopoly.

The Italian figures are also misleading, of course, and notoriously so, because much of the tobacco sold in Italy is smuggled in. As I said, there is no complementary public education program. Not only are cigarettes advertised in Italy with virtual impunity; they are even advertised in children's comics. So I think to look to Italy as an example of a country with an advertising ban is somewhat misleading

The CHAIRMAN. What is the normal experience, to the best of your knowledge, with advertising in countries that have tobacco monopolies? Mr. Waterson says, that the purpose of advertising is to attract smokers to different brands. Therefore, it would appear that a company in a monopoly situation in a country, would not have any need to advertise for brand purposes.

Mr. DAUBE. Yes. I think the best example I can cite there is Kenya. Kenya is a country where until the midseventies a single company had a monopoly of the market, but they were still report-

edly that country's fourth largest commercial advertiser. Now, they could hardly have had an interest in brand share. They certainly did not have an interest so far as I know in lowering tar yields there at that time, because when we were involved with tar testing for cigarettes they were considerably in excess of the tar yields of cigarettes sold in this country and in Britain.

So a company with a monopoly of the market was advertising cigarettes sizeably. The same thing happens in countries such as Austria where there is a state tobacco monopoly.

[illegible]

The CHAIRMAN. Mr. Waterson, I want to go through with you again the story by statistics, because you and Mr. Daube certainly come out at odds. You come out at odds not only on the number of people who quit smoking, but maybe as to the reason they have done so. Would you comment on what he said?

Mr. WATERSON. Yes. It is very simple. Mr. Daube's evidence is based entirely on survey evidence, which I tried to show in my paper is completely faulty. If you ask people questions about their smoking behavior, you will get replies which simply do not square with the truth.

You can confirm this fact by asking your national tax people. If you add up survey evidence of how many cigarettes are smoked or how much drink is drunk in any country in the world, you will come out with an overall figure which bears no relationship whatever—it is always much lower than the figures derived from national taxation statistics. The only figures which you can go on which are reliable are the national cigarette consumption figures.

In Sweden, the other example I quoted, which is completely replicated in Norway, the population simply is not telling the truth. This has to be the case. Otherwise, you get the situation, the crazy situation where half the population has virtually stopped smoking and half the population has almost doubled its consumption over the same period, which clearly does not make sense.

[illegible]

The CHAIRMAN. Do not appear to make sense?

Mr. WATERSON. They do not square off with the things that we know about smoking behavior.

The CHAIRMAN. Then the surveys are irrelevant?

Mr. WATERSON. In certain instances they may be useful to people who have done them for particular reasons, but the ones that I have seen are irrelevant.

The CHAIRMAN. Mr. Daube, do you want to comment on the situation in Norway?

Mr. DAUBE. Yes, if I might. I am disturbed by the dismissal of all survey data. Of course there are bad surveys, and of course there are badly conducted surveys. One thing surveys can do is to show you trends, and that is important. Surely the point is that surveys are flawed in several respects. I think that surveys are flawed in several respects. I think that surveys are flawed in several respects. I think

Senator FONG. Fourth largest advertiser in Kenya, and what is its income, based on other industries in that country?

Mr. DAUER. That I would not know.

Senator FONG. Are you familiar with advertising of those that have basically a monopoly in this country?

Mr. DAUER. I am not familiar with the advertising—I would not claim to be familiar with the advertising situation in this country.

Senator FONG. Are you familiar with A.T. & T.?

Mr. DAUER. I have heard of the name, yes.

Senator FONG. I have no

[illegible]

Mr. DAUER. I am not aware, sir, that gas and electricity in this [illegible] Washington area [illegible] I am not aware that gas and electricity [illegible] Cigarette smoking is not essential for everyday life.

Senator FONG. But we are talking about a monopoly. We are talking about a monopoly. And yet they were the fourth largest advertiser, and that is part of your testimony. It is in the record. So I just tell you that A.T. & T. where you get your telephone, advertises daily, nightly, anytime, in the newspapers, whatever. The Washington area gas and electric, you do not get any electricity, you do not get any gas unless you buy it from them, and they advertise almost nightly.

Are you familiar with State liquor stores?

Mr. DAUER. I have seen them, yes.

Senator FONG. Well, they do not advertise one whit, do they? And yet they depend on the industry and their advertising to bring them in the door.

Mr. DAUER. As I understand it, Senator— and I am sure you can correct me on this—there is a considerable amount of alcohol advertising in this country. Now, if there is not, then I would defer to your comment.

Senator FONG. Well, they do, but you have a monopoly by that State that you cannot purchase alcoholic beverages unless you go to the State-owned liquor store. Yet they benefit from the advertising of the industry itself.

[illegible]

[illegible]

[illegible]

Mr. DAUBE. I would deny absolutely your statement that the industry is doing everything it can, sir. I am conscious that when my 14-year-old nephew in Massachusetts last week picked up this copy of Sports Illustrated there were 14 pages of cigarette ads in it. I think the industry is quite possibly, and sensibly from its point of view, doing everything it can to assure that there is a flow of new recruits into cigarette smoking.

Senator FORD. How many magazines were issued and sold of Sports Illustrated?

Mr. DAUBE. I did not understand that.

Senator FORD. How many magazines were sold? What is the distribution of Sports Illustrated?

Mr. DAUBE. That I do not know.

Senator FORD. Do you know the most popular magazine in this country?

Mr. DAUBE. No, I do not.

Senator FORD. Its distribution is a little over 1 million, and I believe the magazine is called People. That is 2 million magazines out of a population of 220 million.

What is the turnover of magazine per individual?

Mr. DAUBE. I think, Senator, if you are asking me to demonstrate specifics from one single magazine, then that is not my position. My position is that we are talking about a billion dollars worth of advertising in this country each year. We are talking about the massive advertising, not the impact of specific advertisements.

But I am sure that speakers on later panels will also have specific points to make about that.

Senator FORD. I will get back to him, Mr. Chairman.

The CHAIRMAN. Senator Stevens?

Senator STEVENS. What kind of system does the United Kingdom have, Mr. Waterson, in terms of labeling?

Mr. WATERSON. It has three pack warnings which rotate.

Senator STEVENS. Is this a mandated warning requirement on labels?

Mr. WATERSON. Yes.

Senator STEVENS. Has it worked?

Mr. WATERSON. It is my experience and my view, based upon, again, I must stress, research evidence, not on personal opinion as is the case with other witnesses, that every shred of evidence shows in the United Kingdom that the labeling has not worked. There has been done in the United Kingdom a full-scale econometric survey, amongst other things, which showed that the health education program as a whole did not appear to be too effective. It has been shown that in the last year there has been a massive decline in cigarette consumption based purely on a price rise which has outweighed the decline, the entire decline of the previous 7 years.

It is my view for that and other research-based reasons that the pack warnings have had no effect whatsoever.

Senator STEVENS. Is there any other factual data on the use of a rotational system anywhere else that you are familiar with?

Mr. WATERSON. As I have said, from Sweden and from Norway—I am sorry, from Sweden, rather, 16 rotating warnings—it would appear that total cigarette consumption has actually gone up. Sorry, it is certain that total cigarette consumption has gone up.

The claims that are made about the effectiveness of the health warnings depend entirely on survey evidence which is grossly unreliable.

The only thing that may have happened in Sweden is that people have turned to snuff in an amazing way. There has been a 46-percent increase in snuff taking since the warnings came into being, or since before the warnings came into being, in fact, but I do not really think that has anything to do with the warnings.

Senator STEVENS. Do you have any statistics of a comparison of use of marihuana in the United Kingdom as compared to this country?

Mr. WATERSON. I have no direct evidence because it is not a legal product and it is not one with which I have any connection. I do not believe that there is any evidence at all that is worth speaking of, but I do know that the use of the drug is very widespread.

Senator STEVENS. Mr. Daube, what do you say about those rotational systems in the United Kingdom and Norway and Sweden?

Mr. DAUBE. Well, I think we have some common ground in the United Kingdom It is certainly true that we have recently introduced the system of three rotational health warnings. It is equally true that a year after its introduction it would be absurd to make any assertions as to its impact.

It is also true that those warnings were agreed by voluntary agreement, by voluntary negotiation and agreement with the tobacco industry, and it is my experience that the tobacco industry is unlikely voluntarily ever to agree to any warnings that mention words like death or cancer or heart disease, and nor would you, sir, if you were part of the tobacco industry.

So the British warnings are weak warnings, and it is certainly my position that weak warnings will be less effective than strong warnings. And I wish that Britain had the same system of warnings as they have in, for instance, Sweden, or as is being introduced in this country.

It is true that in Britain there have been substantial tax increases in recent years and that cigarette sales have fallen, and it is my position and it is the recommendation of the World Health Organization and other bodies that when you look at a program to reduce smoking, price is important, if you can get it, and so are a series of other measures. We are not looking at specific measures in isolation. We are looking at a series of measures.

It is also my experience in surveys I have had done after tax increases have been enacted, about 50 percent of those responding said that they had given up, to a large extent, because of health reasons. Now, it was not the sole effect. The budget may have been a trigger.

It is intriguing too, that when you have a tax increase that is deferred, the drop in sales comes immediately when the tax increase is announced rather than when it is implemented. In other words, publicity about the dangers of smoking is important.

So I hope that makes my position reasonably clear, that I am for strong warnings, that the relatively weak warnings we have in Britain are an improvement but are not what I would like to see.

Senator STEVENS. Do you take the position that advertising of tobacco products should be banned?

Mr. DAUBE. In Britain I would certainly take the view that—and it is a recommendation of the World Health Organization—that all tobacco advertising and promotion should indeed be banned.

Now, I understand that in this country there may be first amendment difficulties there, and that makes it all the more important that on such advertisements as appear, proper health warnings and product information should be provided.

Senator STEVENS. Have you had any experience in terms of facts, Mr. Waterson, as to what impact advertising really has on the new smokers?

Mr. WATERSON. Every shred of evidence there is suggests that it has no impact at all on new smoking. There are a number of factors which affect people when they are young. Every piece of evidence I have seen repeats over and over again that it is peer group behavior and parental influence which are the two key factors in formulating young people's actions, but not advertising.

Senator STEVENS. Just one last thing. Is the new smoker primarily the young smoker in those statistics?

Mr. WATERSON. I believe so, yes.

The CHAIRMAN. Mr. Daube, Senator Ford was questioning you about monopolies and making references to American telephone, gas companies, electric companies and whatnot.

Without getting into the argument as to whether A.T. & T. is a monopoly, they are certainly prevalent in this country.

Is not the purpose of its advertising or any monopoly's advertising simply to increase the use of the product?

Mr. DAUBE. So I would imagine, and I would add a rider to that, but I cannot speak for American corporations, but I would add a rider to that.

The CHAIRMAN. That is why the tobacco monopoly would advertise.

Mr. DAUBE. Yes. It advertises partly to increase sales and partly also to halt a decline in sales. Given the evidence on smoking, you would expect a fairly sharp decline. In some countries there has been one. And companies are looking to increase sales. They are looking to halt a decline in sales. Of course, they are also competitive.

The CHAIRMAN. But it certainly rebuts any argument that brand switching, is the principal purpose to which, advertising of cigarettes is directed. In that case, a monopoly would not advertise, nor would A.T. & T.—if they are a monoply—advertise for brand switching. They are looking for increased customers.

Mr. DAUBE. If A.T. & T. were advertising solely for brand switching, then I would imagine that most of the executives would be fired overnight.

The CHAIRMAN. Mr. Waterson, do you think that if we have these increased warnings on cigarette advertising, that the cigarette advertising will diminish?

Mr. WATERSON. That is a difficult question to answer. I personally believe that any increase in regulatory activity is likely—I do not want to make the thing too firm—but is likely to decrease the effectiveness of brand advertising, and therefore to lead to a decline in it.

If you impose giant regulations, giant warnings on packs or in the advertisement, clearly you should expect to see less advertising.

The CHAIRMAN. Would you agree roughly with the statement that as a practical matter, the requirement of warning in advertising could result in the elimination of all cigarette advertising?

Mr. WATERSON. I think that depends entirely on the circumstances in which the warnings are imposed, and I would not like to comment firmly on that as a statement.

The CHAIRMAN. Before this committee 17 years ago, that statement was made exactly, and I am quoting:

> As a practical matter, the requirement of warning in advertising will result in the elimination of all cigarette advertising.

And that statement was made by the then chief executive officer of R. J. Reynolds Tobacco Company. So I think the idea that the warnings were going to cause diminishment certainly has not proven to be true.

When you testified before Congressman Waxman's subcommittee, Mr. Waterson, you said, and I am quoting,

> If the bill is enacted, it will contribute directly to a fall in the rate of conversion of smokers from high to low tar brands.

I am curious how you arrive at that conclusion when our bill will require that all cigarette companies list the tar and nicotine levels of their cigarettes.

Mr. WATERSON. Any increase in regulatory activity, in my opinion, will diminish the effectiveness of brand advertising since most——

The CHAIRMAN. Say that again.

Mr. WATERSON. Will diminish the effectiveness of brand advertising in this country.

The CHAIRMAN. Any increase in what?

Mr. WATERSON. In regulatory activity, in other words, the change from one to five warnings.

The CHAIRMAN. Will diminish the——

Mr. WATERSON. Efficiency of brand advertising in this country.

The CHAIRMAN. Why?

Mr. WATERSON. Because it increases clutter, it increases the disparity of the message on the pack, if you like. If you are selling low tar cigarettes and pushing the idea of low tar as against high tar, any clouding of that message will necessarily lead to an interference with the message and therefore with the effectiveness of the advertising message itself, and we have clear evidence that interfering with the number of messages about low tar cigarettes will interfere with the number of low tar cigarettes smoked. It will lead to a decline in the rate of conversion, in other words.

The CHAIRMAN. You are simply saying that if you have so much clutter on the package, the relevant information about tar will be lost?

Mr. WATERSON. Well, I have no idea what sort of size warnings you intend to impose. If you change the shape and the size or increase the size of the warnings, that could have a severe effect, for example.

The CHAIRMAN. Wendell?

Senator FORD. I am curious just a little bit, Mr. Waterson. How were the labels determined to go on packages of cigarettes in other countries? Who was consulted and how did they work out the determination of the wording, the size, the print, et cetera.?

Mr. WATERSON. I am afraid I cannot answer that question. I do not work for the tobacco industry and had no party to negotiations that took place over such warning labels.

Senator FORD. Would you know how the decision was arrived at? Was it through a commission, agreement, a negotiated agreement on what kind of language should be on it?

Mr. DAUBE. There are normally two ways, and obviously I cannot give you chapter and verse for each country here, but there are normally two ways. One is that where there is legislation, a government is empowered to decide on the words of the warning, and that has happened in Norway and Sweden, and that also means that when new information comes to light, for instance, the Norwegian Government can decide, as it has done, to adopt the Swedish system of rotating warnings because it is impressed by what is happening in its neighbor country.

The other method of agreement on words of warning is what you get in a country like Great Britain where there are negotiations between Government and the tobacco industry, and the Government, as tends to be happening here, starts off in one position and the tobacco industry starts off in another, and they try to reach a compromise which is probably acceptable to neither. So in Britain, the Government requested the tobacco industry to adopt the warning, which is printed on Government official literature, and that reads, "Danger. Cigarettes cause cancer, heart disease, bronchitis."

The tobacco industry refused to adopt that, and eventually a much weaker warning was negotiated.

Senator FORD. Well, are you saying that the labeling was imposed by regulation and not by law in the United Kingdom?

Mr. DAUBE. No; the warning has been reached by voluntary agreement in the United Kingdom. The reason for that is that the Government, as at present, has preferred to reach agreement on the label on cigarette packs and advertisements rather than legislate. The tobacco industry has accepted that because obviously they fear that if they do not accept some kind of warning, legislation will follow. So it is a voluntary agreement.

Senator FORD. So it is a voluntary agreement.

Do you think that is the proper way to go rather than have government interference?

Mr. DAUBE. First of all, sir, if I could take the point about government interference, because I think that is a rather important point. I think that the government has the right to interfere with cigarette advertising when the lives of so many people are at stake. The sort of opposition to what you term government interference now is reminiscent of the opposition that there was in Britain in the 19th century to the great public health legislation when the London Times thundered, "Every man is entitled to his own dung heap." And, they wrote, "We prefer to take our chances of cholera and the rest than be bullied into health."

But of course, the Public Health Acts, within a very few years of their being passed, were widely recognized as being essential features of a civilized society. That is the first point.

The second point is: Is a system of voluntary agreement acceptable or satisfatory? Voluntary agreements have been tried in many countries and have uniformly been found to be unsatisfactory. Governments rightly start off trying that, but it fails, and it was the late Senator Robert Kennedy who said in 1967 in this country, that "if we were starting afresh, I would say the first step should be industry self-regulation of advertising. But self-regulation has been proven to be a complete charade." That was in 1967, and I think we have found since then that self-regulation in tobacco is even more of a charade.

Senator FORD. Well, do you apply that philosophy to all other phases of life?

Mr. DAUBE. No; I certainly do not.

Senator FORD. What about the professions? Do you think government ought to interfere with the professions and tell you what you can and cannot do and what regulations you must adhere to?

Mr. DAUBE. It is not my position that I want to see a decline in the number of lawyers or doctors or accountants. And it is also not my position that the professions cause the kind of mammoth amount of ill-health and premature death that cigarette smoking does. I am dealing with tobacco.

Senator FORD. Well, I am just saying, though, but your philosophy is that you do not want it to apply to the professions, but you want it to apply to the profession which you represent. It seems like to me that you are kind of going both ways on me here, talking with forked tongue. You do not want to be regulated yourself, but those people you do not like out there you want government to interfere, and we have a little different attitude here.

Thank you, Mr. Chairman.

Mr. DAUBE. May I respond to that?

Senator FORD. I will let you respond to the other one. My time is up.

The CHAIRMAN. You can respond on his time because the question was asked on his time.

Go ahead.

Do you have any more questions, Wendell?

Senator FORD. I do not know. It depends on what he says.

The CHAIRMAN. Go ahead.

Mr. DAUBE. First of all, sir, I think we would both agree that certain forms of regulation are necessary, speed limits, for example, in cars.

Second, I think there is a commonsense distinction that you draw between products like tobacco, which is the largest avoidable cause of death, and disease, and something like professions, which are so totally different that I do not see how any comparison can be sensible.

I am worried, sir, that there does not seem to be an understanding of the extent of the problem. For example, each year in Britain we find—first, we find in surveys that people do not understand the personal risks of smoking. People believe that road deaths cause more deaths than smoking. But each year we find—and I do

not have the figures for the States. I have not had time to work them out—that cigarettes kill approximately four times as many people as the total killed by drinking, drugs, murder, suicide, road accidents, rail accidents, air accidents——

Senator FORD. That is in England.

Now, do you have any statistics on this country? This is what we are trying to work out, what happens here in America, not what happens in the United Kingdom.

Mr. DAUBE. Sir, I can assure you that the figures for this country are analogous, and I can also assure you that I am distressed at——

Senator FORD. How many people entered the Houston Trauma Center last year, or Chicago or Miami, how many were shot in this country? You know, how many were disabled? What did that cost in automobile accidents?

Mr. DAUBE. You will find, sir, that if you add them all together they do not amount to anything like the number killed by cigarette smoking.

Senator FORD. I do not know that they are killed, that is where you and I may disagree a little bit. You are getting into a different field, and you say that is the reason that we limit the speed limit. Well, the people break it, they get caught, you know, and so they have to allow them the opportunity to break it. Otherwise we would not need a police force, we would not have to have tickets.

Mr. DAUBE. I am sure, Senator, you would not be encouraging people to break the law, but I would certainly want to stress, and I really want to come back to this because I am worried that we may have shifted the focus of attention. Little that there is a substantial difference between smoking and other products. That is why I feel that this measure as a public information and education measure that does not infringe anybody's liberty is an excellent measure.

Senator FORD. What about alcohol?

Mr. DAUBE. Alcohol is a very substantial public health problem, also. I have tried in my testimony to make my position absolutely clear because I do not want to have any misunderstanding that I believe that again, measures that do not infringe the freedom of the individual, such as curbing advertising, are desirable for alcohol but I would if you press me say that cigarette smoking is overwhelmingly the largest cause of avoidable death and disease, and I think that the case for action on smoking is the premier case in terms of preventive medicine in the Western World.

Senator FORD. Well, we have drug and alcohol abuse, and we have an educational program, and the Government has stayed out of it, and they seem to be performing very well.

Would you not like to give us an opportunity to try that rather than impose Federal regulation upon industry?

Mr. DAUBE. I am looking, sir, for a complementary program, and I stress that, for education and for other measures. Perhaps I can draw an analogy. A complementary program entails not only capturing South Georgia but also landing on the Falklands. You cannot capture the Falklands simply by landing on South Georgia, and you cannot have a full smoking control program that does not include what I have referred to very early on in a seminal Norwe-

gian report, education and information measures, legislation, and help for those people who wish to give up.

Senator FORD. Well, your best ship in the Navy was sunk by a 20-year-old missile, and you want to not go on with any other additional research and development?

Thank you, Mr. Chairman.

The CHAIRMAN. To that you do not need to respond.

I have no other questions.

Gentlemen, thank you very much.

Oh, excuse me. Ted, I'm sorry.

Senator STEVENS. I just wondered, Mr. Waterson, I asked a question about children.

Do you have any statistics about the impact of advertising on children commencing smoking? Does that have any relationship?

Mr. WATERSON. We have a number of pieces of evidence which suggest that there is absolutely no impact at all, that advertisements are not the factor which leads children to take up smoking. The factors which lead children to take up smoking are factors such as parental and peer group influence, educational measures, and this sort of thing. It is quite clear in my mind, and the evidence is overwhelming and pointing in one direction and one direction only, which is that it is not advertising which is the problem at all.

Senator STEVENS. So if the case were made toward a new smoker, advertising would be practically immaterial as far as the new smoker?

Mr. WATERSON. It is my belief, based on the research evidence I have seen, that advertising would not be of much use in that situation.

Senator STEVENS. Thank you.

The CHAIRMAN. Gentlemen, thank you very much for coming.

Next, we will take a panel of Mr. Edward Horrigan, Prof. Roger Blackwell, Mr. Larry Light, Prof. Joel Cohen, and Mr. Charles Sharp. Why don't we start with Mr. Horrigan? Are you ready?

STATEMENTS OF EDWARD HORRIGAN, CHAIRMAN OF THE EXECUTIVE COMMITTEE, THE TOBACCO INSTITUTE, ROGER D. BLACKWELL, PROFESSOR, DEPARTMENT OF MARKETING, OHIO STATE UNIVERSITY; LARRY LIGHT, EXECUTIVE VICE PRESIDENT, TED BATES & CO., INC.; JOEL COHEN, DIRECTOR, CENTER FOR CONSUMER RESEARCH, UNIVERSITY OF FLORIDA; AND CHARLES SHARP, CHARLES SHARP & ASSOCIATES

Mr. HORRIGAN. Yes, sir, Mr. Chairman.

My name is Edward Horrigan, and I am appearing here this morning in my capacity as chairman of the executive committee of the Tobacco Institute. I also serve as chairman and chief executive officer of R. J. Reynolds Tobacco Co.

Joining with me on the panel this morning are Dr. Larry Light, executive vice president of Ted Bates, along with Dr. Roger Blackwell, professor of marketing at Ohio State University.

Before presenting my prepared, brief statement, I would like to digress just for a moment in connection with a development here this morning. That is, on behalf of our industry, I would like to ex-

press shock and disappointment at the selection of Dr. Harrison as the first witness before this committee, because we informed Mr. Perlmutter prior to this meeting here this morning that we would provide extensive scientific testimony if needed, and we were assured that it is not necessary, because scientific questions were not to be raised. However, the session opened this morning with Dr. Harrison, making sweeping generalities on several complex scientific issues, and presenting himself as an expert in marketing, market research, and consumer behavior.

My impression this morning, listening to Dr. Harrison, was that he sounded more like a prohibitionist than a medical man. Of course, we do not intend to respond to the general statements that were made by that gentleman this morning. We have submitted scientific testimony in two previous hearings before Congress and if scientific testimony is required we stand prepared to do so again this morning.

I would like to return now to the issues that we were prepared to discuss and asked to discuss this morning. That is that on the basis of all the facts available, not just those selected by the individuals and organizations who are opposed to smoking, we can find no justification for this bill, and we believe it therefore to be bad, unnecessary legislation. Its provisions represent a misguided attempt by those opposed to smoking to further impose their beliefs upon millions of Americans who have made the decision or choice to use tobacco products. The passage of this bill would impose a web of technical, complex regulations upon one of this nation's oldest and largest industries, and there is significant evidence to suggest that its implementation could actually lessen awareness of cigarette health warnings. Also, this bill raises serious constitutional questions under the first amendment.

Based upon the evidence supplied by several highly respected public opinion research organizations, it is apparent that public awareness about the alleged association between smoking and disease probably exceeds that of any major contemporary issue, exceeding 90 percent. Such a high level of awareness by the public shows that the Federal Cigarette Labeling and Advertising Act is working. Therefore, why is it necessary to consider an unproven and complex system of rotating health warnings?

In its report, the FTC staff concluded that such warnings are needed because the present warning has become ineffective and does not adequately inform the public of claimed new findings and specific charges about the alleged relationship between smoking and health. This report is fundamentally flawed, as Burns Roper, chairman of The Roper Organization, whose studies are cited extensively in the FTC report, clearly states. Mr. Roper said:

> The FTC staff concludes, based on our and other survey data, that the public is inadequately informed about the dangers of smoking. Using exactly the same data on which they base their conclusion, I would conclude almost exactly the opposite, and that the public is highly aware of the reported dangers of smoking.

I would request at this time that a copy of Mr. Roper's letter be entered into the record of these proceedings. I would also add that Mr. Roper is here today, should you wish more information.

[The letter follows:]

THE ROPER ORGANIZATION, INC.
March 10, 1982.

Hon. HENRY WAXMAN,
Chairman, Health Subcommittee, Committee on Energy and Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that you Subcommittee is currently holding hearings on H.R. 5653. This is the bill that implements the cigarette labeling requirements recommeded in the Federal Trade Commission Staff Report On The Cigarette Advertising Investigation, dated May 1981.

At least two surveys conducted by the Roper Organization are cited extensively in that staff report in support of the report's contention that stronger and more varied cigarette warnings are required both on cigarette packages and in cigarette advertising. One of the studies so cited is the report of a private survey we conducted for the Tobacco Institute in 1978 which was subpoenaed by the FTC and subsequently publicly released by the FTC. The second was a survey we conducted specifically for the FTC in 1980.

In its staff report, the FTC does not directly attribute the conclusions reached (namely, that stronger and varied warnings are required) to our organization. However, the frequent references to our data carry the implication that the Roper studies support the report's conclusions.

I have no objections to the way the FTC staff reported the results of our surveys. To the extent that I have checked those facts, they are correct. I do, however, strongly disagree with the conclusions the FTC staff reaches based on those facts.

Because the FTC report relies so strongly on Roper data and because I disagree with their interpretations of that data, I respectfully request that this letter be included in the transcript of your hearings.

The FTC staff concludes, based on our and other survey data, that the public is inadequately informed about the dangers of smoking. Using exactly the same data on which they base their conclusion, I would conclude almost exactly the opposite—that the public is highly aware of the reported dangers of smoking.

In our 1978 survey—conducted for the Tobacco Institute, not the Federal Trade Commission—we drew up a balance sheet in our summary of the survey's findings. The first two "liabilities" we cited to the industry's position were as follows:

"1. More than nine out of every ten Americans believe that smoking is hazardous to a smoker's health.

"2. A majority of Americans believe that it is probably hazardous to be around people who smoke, even if they are not smoking themselves."

I would submit that this hardly represents unawareness of the problem.

In dealing with our 1980 survey conducted for the FTC, the staff report notes on page 5-40:

"Despite the dangers of carbon monoxide, many people are unaware of its presence in cigarette smoke. In the 1980 Roper study, 53 percent of the total sample and 56 percent of smokers did not know that cigarette smoke contains carbon monoxide."

While I do not quarrel with this finding, I do quarrel with its implication. I would submit that many also don't know that carbon monoxide is dangerous to one's health.

My fundamental quarrel with the FTC's contention is that they are expecting the public to possess a high level of detailed, rather technical information that it is wholly unrealistic to expect and that can probably never be achieved by any educational campaign, no matter how extensive it is, or of what duration it is.

An analogy: I would submit that most Americans know their cars have air pollution equipment installed in them, that substantially fewer know have catalytic converters, and that very, very few know these catalytic converters contain platinum. Does this mean we need a campaign to acquaint people with the presence of platinum in the catalytic converters that constitute a major portion of the air pollution equipment in their cars?

On page 5-24 of the FTC staff report, the following statement appears based on our 1978 survey for the Tobacco Institute: "Sixty-one percent of those polled and 69 percent of the non-smokers polled favored the proposed new warning. Only 34 percent of those polled and 26 percent of the non-smokers favored the current warning."

The implication of this citation is that this shows the need for a stronger warning. To me, it shows the reverse. Sixty-one percent would not favor a stronger warning unless they were already aware of the dangers.

Many of the FTC staff's conclusions that the public is unaware of specific dangers resulted from the incidences of "incorrect" answers—or guesses—on multiple-choice

questions we asked on behalf of the FTC in our 1980 survey. These were questions that asked how many times more likely a smoker was than a non-smoker to get disease X and then offered four or five different ratios (e.g., less than twice as likely, twice as likely, five times as likely, ten times as likely, twenty times as likely). In response to almost all of these questions, the great majority of people answered more likely, even if they did not pick the precise number of times more likely that the FTC says is correct.

Where the frame of reference was reduced life expectancy, the great majority answered that the smoker experienced reduced life expectancy even if they were not able to guess the exact number of years.

If I were to ask you if the sun is a lot further from the earth than the moon is, or a little farther from the earth than the moon is, or about the same distance from the earth as the moon is, you would have little trouble answering that it is a lot farther, thus indicating a high general awareness of the relationship of the sun and moon to the earth. But if I were to ask you whether the sun is 42.6 times as far from the earth as the moon is, or 121.8 times as far, or 266.3 times as far, or 889.1 times as far, it is possible you would not select the correct answer. (I would not have, either, and in fact I didn't know what the exact ratio was until I looked it up and computed it.) But I don't think this means we need a new educational campaign to make people aware how much farther the sun is from the earth than the moon is.

I would not argue that more severe and varied warnings would lessen public understanding of the dangers. But I would argue that they are likely to increase the awareness much, for it is already at a very high level.

My main purpose, however, is to disassociate our firm from the conclusions—though not the data—drawn from our surveys.

I am sending copies of this letter to each of the members of your Subcommittee as well as to our contacts at both the Federal Trade Commission and the Tobacco Institute. I am also including a copy of a letter I sent to Mr. Andrew Sacks of the FTC at the time we delivered our 1980 survey, a letter which has been made public. In that letter I indicated that we concluded the survey showed high general awareness of the risks of smoking.

Respectfully yours,

BURNS W. ROPER.

Mr. HORRIGAN. I also call your attention to the fact that [illegible] the FTC's current Director of Consumer Protection, Mr. Timothy Muris, has acknowledged that 90 percent of the public is aware of the health risks allegedly associated with smoking. Therefore, rotating health warnings cannot be justified on this basis, and there is significant evidence that in fact they may be counterproductive. Dr. Yoram Wind, professor of marketing at the Wharton School of the University of Pennsylvania gave the following evaluation at similar hearings on H.R. 5658, when he said, "It is quite possible that the rotational health warnings proposed would have an opposite effect of what is intended by the bill's sponsors."

Furthermore, a review of the FTC's data by one of today's panel members, Dr. Roger Blackwell, supports that viewpoint. Not only are the rotating warnings unnecessary and possibly counterproductive, but they also are technically unworkable, they are cumbersome, and they would create a logistical nightmare for manufacturers. In December 1981, the FTC reported "tar" and nicotine levels on 200 cigarette brand styles. This bill would require every brand of cigarettes to carry each of the five warnings called for an equal number of times during a 15-month period, and that at any given time each of the five warnings must appear on at least 15 percent of all cigarette packages and advertising. It would be virtually impossible to insure that each warning statement is presented to the public an equal number of times. Therefore, equalizing warning statements among all brands will have no relationship to the number of times that each statement is exposed to the public.

We also believe that the requirement for disclosure of "tar," nicotine and carbon monoxide levels on packages and in our advertising is unwarranted. Smokers who choose their brand on the basis of t.a.r——

The CHAIRMAN. I am going to have to ask you to conclude reasonably soon.

Mr. HORRIGAN. Mr. Chairman, if I may, I was assured by Mr. Perlmutter that I would be given 10 minutes for my testimony, not 5 minutes, and this represents a significant change, sir.

The CHAIRMAN. All the panelists were told 5 minutes.

Mr. HORRIGAN. The letter I have and the statement I had from Mr. Perlmutter—I am terribly sorry. I was told 10 minutes. I would not have crafted such a statement if I were told 5. I would have respected your wishes.

The CHAIRMAN. In that event, go ahead. I will not quarrel with you.

Mr. HORRIGAN. Thank you. I appreciate that. And nicotine levels have been able to readily obtain this information since 1970. There is also no purpose to be gained by the publication of carbon monoxide levels. Scientific evidence does not establish that exposure to carbon monoxide from cigarette smoking presents a health hazard to smokers or nonsmokers.

The available evidence clearly shows that our advertising is not designed to attract new smokers of any age, and it is not having that effect, because in fact our own government reports show that the percentage of smokers in this country is declining.

In conclusion, Mr. Chairman, it is our firm belief that the weight of all the available evidence demonstrates that this bill represents bad legislation. It does not have a valid scientific basis, because the findings used to support it will not stand unbiased scientific scrutiny. It is unnecessary because the present Surgeon General's warning has created unprecedented public awareness of the alleged association between smoking and health, and it is counterproductive for two important reasons:

First, acceptance of the scientific statements made in it could well deter much-needed research into the causes of chronic disease, and second, it could lessen public awareness of the issues with regard to smoking.

But I think more importantly this bill is bad legislation because it seriously erodes the principle of free choice in our society. It implies that those who do not conform are uninformed, and that they cannot be allowed to reject opposing views regarding the use of tobacco products.

This reflects a strong prohibitionist mentality which the citizens of this Nation have already rejected. We firmly believe, then, that this bill is an unwarranted intervention by the Federal Government into the lives of private citizens, and we also think that it represents a thinly veiled effort to further harass an industry which is already heavily burdened by legislation.

That concludes my remarks, Mr. Chairman.

The CHAIRMAN. Professor Blackwell.

Mr. BLACKWELL. My name is Roger Blackwell. I am a professor of marketing at the Ohio State University. A list of my publications and qualifications is submitted with my written statement.

I have been asked to analyze section 5 of S. 1929, which would change the present labeling requirements for cigarette packages and advertisements, and I have also reviewed some of the materials of the staff of the Federal Trade Commission on the report on cigarette advertising.

In my opinion, the change in the warning statement is fundamentally flawed. First, the provisions of section 5 would replace a highly successful program of informing consumers about the claimed risks of smoking with a program of unknown and potentially counterproductive consequences. All of the studies conducted about consumer awareness of the health claims about smoking

[illegible]

Now, the problem with section 5 is that the consumers will be confronted with one of two things. They will erroneously believe that they will personally suffer the specific health problems identified in the warning statements. In other words, the statements say you may get health hazards of specified natures. If everybody believed that, that would, of course, be a deceptive advertisement which philosophically people probably would be opposed to, but the more realistic problem would be that they would read those and conclude that they were only for a small, limited minority of the population, and therefore, as human nature is usually, it leads people to conclude—they would conclude that this is for somebody else, not for themselves, and specifically it would be youth most likely to make that conclusion, because we are talking about claims that are primarily cancer, a disease for older people.

So, in a sense, we would probably be attacking the possibility of communicating with young people more than with any other group counterproductively.

Now, I have prepared in my written statement a number of pages which describe the problems with various surveys and so forth that indicate that people are in fact aware of the health claims, and for those reasons I would say that the current studies really do underestimate consumer awareness about health hazards. There is, unfortunately, no way of knowing exactly what it is, but it is clear that 80 or 90 percent levels of awareness is very high, probably higher than any other thing that we might have baseline.

But more seriously, it would be wrong to conclude that consumers are not adequately informed about the claimed health conse-

quences of smoking, simply because many consumers choose to continue to smoke. The FTC staff reports several times that smokers are not as well informed as nonsmokers, implying that such informational differences are responsible for the decision of whether or not to smoke. But that conclusion, and there is some evidence on this—we hear so many times there is not any evidence, but there is a conclusion based on evidence that flatly refutes it, and that is from the 1980 Chilton Study, and the conclusion reached by the Chilton Study is as follows, and I quote from page 22:

> Factual knowledge about the health consequences of smoking was not found to be significantly related to current smoking behavior. No more differences between knowledge levels of smokers compared with nonsmokers were found to be significant at the .05 level than were to be expected by chance.

This important finding that consumer knowledge has no relationship to smoking behavior refutes the notion that people who smoke do so because they are not informed.

To conclude, I would say that as an analyst of consumer behavior and as a person who is a nonsmoker personally, I am quite concerned that what would happen is that the people who might find the warnings more personally relevant would be older people, and people who would find them irrelevant because they are already [illegible] of the health hazards that are alleged to occur from smoking.

[The statement follows:]

STATEMENT OF DR. ROGER D. BLACKWELL

My name is Roger D. Blackwell. I am professor of marketing at the Ohio State University, specializing in the analysis of buyer behavior and development of marketing strategy. My Ph. D. degree was earned at Northwestern University, with a concentration in consumer behavior. I have authored or coauthored 14 books and over 50 articles published in professional or business journals that report research that I and others have conducted concerning the communications process, consumer decision processes involved in buying and using goods and services, and variables involved in marketing strategy. One of my most recent books is the fourth edition of Consumer Behavior, published this year. The book describes psychological principles involved in buying and consumption and is the most widely adopted textbook in the field. A complete list of my publications is submitted with this statement.

This is my personal statement and should not be construed to reflect the views of the Ohio State University or any other institution with which I am or have been affiliated.

I have been asked to analyze section 5 of S. 1929, which would change the present labeling requirements for cigarette packages and advertisements. The rotational system of warning statements proposed by section 5 of the bill is similar to a recommendation made last year by the Staff of the Federal Trade Commission in a report on cigarette advertising, and I have evaluated the findings and conclusions of that Report as well.

In my opinion, the change in the warning statement proposed by section 5 is fundamentally flawed. First, the labeling provisions of section 5 would replace a highly successful program of informing consumers about the claimed health risks of smoking with a program of unknown and potentially counterproductive consequences. All of the studies conducted about consumer awareness of smoking and health issues lead to the conclusion that people are universally aware of the claims that smoking is hazardous to health. Why abandon this program in favor of a course that is not

only uncharted but, as I hope to demonstrate, likely to lead to results quite the opposite of those apparently intended by the bill's sponsors.

The other basic flaw in section 5 is that the system of rotated warnings attributing specific health problems to smoking will probably lead to one of two unhappy effects: either consumers will erroneously believe that they will personally suffer the specific health problems identified in the warning statements, even though such problems affect only a minority of the smoking and nonsmoking population, in which case the warnings would be deceptive; or consumers will correctly perceive that only a small proportion of the population is at risk from the stated health problems, and will thus conclude tht the Surgeon General and other health authorities have now decided that smoking is not hazardous to all people. Since it appears that the specific diseases identified in the proposed warning systems apply primarily to older people and pregnant women, the probable effect of the law would be to reduce drastically the impact of the warning statement on young people.

The rotational warning system proposed in the present bill and the FTC Staff Report apparently is based on the assumption that present public awareness of the claimed health consequences of smoking is "insufficient." Finding 6 in section 2 of S. 1929 states that "present Federal, State, and private initiatives have been insufficient" in conveying information about the claimed health consequences of smoking to the American public. Similarly, the FTC staff report asserts that "additional action designed to provide consumers with more information about the health consequences of smoking is necessary." (Report at p. 21) For several reasons, this assumption is dubious.

In the first place, determination of what consititutes a "sufficient" level of awareness in such a complex area is both difficult and subjective, although it appears to me that, by any standard, the level of awareness about the claimed health hazards of smoking is astonishingly high. A basic question is the amount of information a consumer can reasonablsy be expected to be aware of in connection with a decision to use any particular product. Many of the questions posed in the surveys cited by the FTC staff required a detailed scientific knowledge about questions of smoking and health, including a complete awareness of every health problem that has been attributed to smoking, specific size of the increase claimed in the risk of incurring each problem if one smokes, the percentage of each particular health condition that is attributed to smoking, and the proportion or number of people who die from a given health condition. From the consumer viewpoint, what value is there in possessing such a complex array of information? When one considers the tremendous amount of information to which the consumer is exposed every day, and the fact that consumers do not possess unlimited processing capacities, it clearly would seem more functional for the consumer to retain in memory the overall implication of these numerous bits of information about the claimed consequences of smoking, i.e., that smoking is dangerous. That is precisely the information conveyed by the present Surgeon General's warning statement.

Proper evaluation of the adequacy of consumer awareness also is hampered by the fact that there is no baseline for comparison. For example how does consumer awareness about smoking and health compare to the information consumers possess about the health hazards attributed to other products such as automobiles, liquor, and hang-gliders? Without such comparison, judgments about the sufficiency of the level of consumer awareness are highly subjective and cannot serve validly as a basis for the far-reaching changes embodied in Section 4 of the bill.

Moreover, an examination of the studies on which the FTC relies for the proposition that consumers are not sufficiently aware of the dangers associated with smoking reveals that those studies are defective in several important respects.

Perhaps most significant is that many of the survey measures assessed beliefs rather than awareness. The distinction between belief and awareness is a critical one given the exisiting controversy over the health threats presumed to be posed by smoking. Consider the likely situation of a survey participant who recognizes that smoking has been found to be associated with particular health problems but finds the evidence insufficient for demonstrating that smoking causes these health problems. Thus, the person is aware of the claimed link between smoking and some health problems but does not believe that smoking causes the problems. As stated in the 1980 Burke Marketing Research Focus Group Study commissioned by the FTC:

"Further doubt about the direct relationship of smoking and cancer seems to be related to the fact that these persons had known smokers who had lived long lives without contracting cancer and non-smokers who had suffered from that disease." (Burke Study Analysis at p. 4.)

Many of the measures employed in the studies asked the respondents to indicate their agreement with or the correctness of statements such as "smoking causes X."

Respondents who disagreed with these "supposedly true" statements are categorized as unaware. Alternatively, these respondents may be aware of the medical evidence but have concluded that while smoking is "related" to X, it does not "cause" X. Evidence supporting this alternative explanation is provided by the 1980 Chilton study conducted for the FTC Staff. At one point survey participants were asked whether heart disease "had been found to be associated with cigarette smoking." (Question 42e) Only 9.5 percent of the teenagers and 9.3 percent of the adults interviewed answered incorrectly (i.e., "No" and "Don't know" responses). Later in the interview, these same persons were asked whether the statement "cigarette smoking is a major cause of heart disease" (Question 52) was true or false. 26.8 percent of the teenagers and 39.6 percent of the adults were presumed to be "unaware" of the claim embodied in this statement. Such response variations between questions involving the same disease, but which differ in positing smoking as either the cause of or simply associated with that disease, strongly suggest that many persons classified as "unaware" in fact are aware of smoking's asserted relationship to various health risks. These persons simply do not believe that smoking causes the health problems.

Question wording has long been recognized as a critical area in survey research. The FTC Staff Report acknowledges that ". . . conservative sounding statements have been found to be more likely to generate agreement. . . ." (Report at page p. 3-3) By the same token, statements employing extreme wording or phrases are likely to inhibit agreement. Thus, the amount of agreement with the statement "smoking is by far the greatest cause of lung cancer" used in the 1980 Roper Study was probably lower than had the statement been phrased "smoking is the greatest cause of lung cancer." Wording ambiguity can also influence the response patterns to a question. Phrases repeatedly appearing in the Roper Study such as "by far," "greatly increases," and "significantly increases," are very subjective. For example, some people may perceive a 30 percent risk increase as a significant increase, while other may not.

It is interesting to note that the FTC Report cites evidence that people tend to ignore or discount statistical information in making judgments. (Report at pp. 4-14 and 4-15). Given this evidence, it seems inconsistent to employ measures of "statistical knowledge" for assessing the level of awareness concerning the claimed effects of smoking. Measures of this type, however, were frequently employed as indicators of consumers' awareness about the asserted dangers of smoking (e.g., "What percent of lung cancer cases are caused by cigarette smoking?"—Chilton 1980; "Smokers are at least ten times as likely to develop lung cancer than non-smokers"—Roper 1980).

For these reasons, it would appear that current studies have underestimated consumers' awarenes about the health hazards associated with smoking. There is, unfortunately, no way of predicting how much underestimation error exists in these data. But in view of the fact that these same studies consistently report awareness levels in the 80 to 90 percent range, it is fair to conclude that public awareness of the various claims about smoking and health is as a practical matter universal.

It would be wrong to conclude that consumers are not adequately informed about the claimed health consequences of smoking simply because many consumers continue to smoke. The FTC Staff Report states several times that smokers are not as well informed as nonsmokers, implying that informational differences are responsible for the decision whether or not to smoke. That conclusion is flatly refuted by the 1980 Chilton Study, the very study cited by the FTC Staff to demonstrate the supposed difference in the levels of awareness between smokers and nonsmokers. The conclusion reached by the Chilton study was as follows:

"Factual knowledge about the health consequences of smoking was not found to be significantly related to current smoking behavior No more differences between knowledge levels of smokers compared with non-smokers were found to be significant at the 0.05 level than were to be expected by change." (p. 22)

This important finding that consumer knowledge has no relationship to smoking behavior refutes the notion that people who smoke do so because they are "uninformed" about the claimed dangers of smoking. The lack of a relationship between awareness and smoking also demonstrates that increasing consumers' awareness about the health hazards attributed to smoking is unlikely to influence their smoking behavior. Consequently, to the extent that the present bill is based on a desire to reduce smoking—and putting aside the question whether behavior modification is an appropriate goal for government in this country—the warning statements proposed by Section 4 are simply irrelevant.

Given these facts, a change of the sort contemplated by Section 5 should not be undertaken unless there is significant evidence that the proposed system of rotated warnings would better achieve the goal of informing the public. The little evidence that exists not only fails to support that propostion, but in fact contradicts it.

An initial study for the FTC Staff was undertaken in 1980 by Walker Research to assist in the selection of specific warning statements, while another study conducted by Burke Marketing Research examined consumers' recall of various warnings. Importantly, neither study examined the impact of such warnings on consumer awareness. There are accordingly no data to indicate that a rotational system such as that proposed by the bill would meet the objective of providing consumers with "sufficient" awareness about the claimed consequences of smoking, particularly if sufficiency is gaged by the very detailed measure used in the surveys cited by the FTC Staff.

What the studies do demonstrate is that consumers are likely to discount warnings that link smoking to specific health problems. In its Summary of Key Findings, for example, the Burke Focus Group Study states:

"The messages relatred to birth control pills *and* heart attacks tended to confuse the participants, who did not thoroughly understand the synergistic effects which form the basis of the message. These two statements relating to oral contraceptstives also had the least personal relevance and were rather easily dismissed as being intended 'for someone else'." (Emphasis added.)

The Study thus concludes:

"It seems that the birth control message could have relevance to a highly select group of people who could be best reached through very specific media. The message might be lost to the population as a whole." (Burke Focus Group Study Analysis at p. 6.)

That same conclusion appears to apply with equal validity to each of the specific disease warnings contemplated by S. 1929.

Thus, even the preliminary research that has been done tends to support the conclusion that the proposed rotational warnings would be considered irrelevant by some consumers, as compared to the present warning statement that announces to every consumer the Surgeon General's conclusion that "smoking is dangerous to your health."

These findings are particularly significant in view of one of the major premises of the FTC staff report, and presumably of the present bill: that consumers should perceive information concerning smoking and health to be personally relevant. Since it is basic to human nature to conclude that risks apply to "the other person," specific warnings that might be more personally relevant to some consumers would by definition be personally irrelevant to most other consumers. For the individual who sees these diseases as unlikely to occur personally, then the proposed new warnings would be less relevant. Such individuals are particularly likely to be young consumers who may be making the decision of whether to smoke or not. While the decision to smoke is not related to advertising, at least in the present situation parents or peers can say to people who are deciding to smoke that "the Surgeon General has determined that smoking is dangerous to your health." Under the proposed new warnings, the logical conclusion would be that the Surgeon General has no longer determined that smoking is generally unhealthy, but only unhealthy for certain older segments of the population or for pregnant women.

As an analyst of consumer behavior and decisionmaking, I am of the opinion that S. 1929 may well have the opposite effect of that which appears to be intended by its sponsors. I am concerned that S. 1929, no matter how laudable the intentions of the sponsors, is not desirable legislation if the goal is to have the general population, and especially smokers, aware of the halth hazards that are alleged to occur from smoking.

The CHAIRMAN. Thank you.

Dr. Light.

Dr. LIGHT. Thank you, Mr. Chairman. As a member of the advertising community, I see no justification for the provisions in S. 1929, which call for rotating warning notices in cigarette advertising and on packages. There is no evidence that there would be any benefit from this technically complex and cumbersome proposal. The labeling and advertising proposals included in this scheme apparently stem from the conclusion that public awareness of the claimed health consequences of smoking is inadequate, but this conclusion is wrong. All evidence indicates that the level of public awareness of both smoking and health is high. Surveys show that awareness of these alleged dangers is over 90 percent. This is an

extraordinarily high number by any standard. This extremely high level of awareness of the warning message is not surprising. I do not believe that there has been a single message that has had the level of advertising support that the Surgeon General's warning has had.

Since 1971, the warning has appeared in hundreds of millions of dollars of advertising. I should point out that when I speak of awareness I do not mean that people actually memorize specific words, but people do remember overall impressions, and consumers have registered the intended net impression of the Surgeon General's warning statement. They have done so because this statement has met the fundamental advertising principles of producing effective messages, principles such as simplicity, clarity, frequency, consistency, and singlemindedness. Thus, not only has there been an enormous amount of dollar support for the present statement for over 10 years, but sound principles of good communication have been followed.

Therefore, again, I am not surprised that we have these extraordinarily high awareness levels. The staff of the Federal Trade Commission seems to be concerned that the warning may have somehow worn out. They apparently believe that old cliche, "familiarity breeds contempt." Well, in advertising, just the opposite is true. Familiarity breeds trust. Consistency breeds confidence. But unfamiliarity breeds uncertainty, and apparently random behavior breeds confusion.

Marketers recognize the value of consistency and familiarity. No company capriciously abandons an asset that it has built over many years and at great expense. The present warning statement in its white box with its consistent type style and its consistent set of words has appeared in the same form since 1972. It is now the Surgeon General's logo. The value of this consisent asset has been demonstrated. The warning is instantly recognized and understood. This is so even when the warning is printed in a language foreign to most Americans.

Let me show you one advertisement, for example. Here it is. It is in an oriental language foreign to most Americans, but when you show an ad like this to most Americans, the one thing they can recognize is the Surgeon General's warning statement, and they can report back the intended message of the symbols in that white box.

The proposal in S. 1929 seems to be based on a simple premise. Since people are continuing to smoke, they must not be adequately informed. Of course, this premise is wrong. All of us have every day experiences with ideas about which we are aware, but because of other information in our personal mental computer we choose not to believe them. Awareness and belief are very distinct concepts. Analysis of the FTC report suggests, however, that the staff consistently confused the concepts of awareness and belief.

The FTC's stated objective is to increase awareness of smoking and health issues. They believe that if awareness were increased, smoking would then decrease. Advertisers know that many, many factors determine ultimate behavior besides simple awareness. It is a simple fact of human nature that awareness and knowledge are

not adequate explanations of behavior. There is little chance that the proposed rotational scheme will increase overall awareness.

There is no evidence that the proposal will affect beliefs. There is no evidence that the proposal will affect behavior. There is no justification for implementing this complex, burdensome social experiment. There is no justification for a proposal which constitutes no more than continued harassment of marketers of a legal product.

Few Americans today would endorse the policy of legislation by haphazard, capricious experimentation. This seems to be an example of a policy of "pay now and pray later" for some benefit. Hopefully, that philosophy of government is behind us. The current administration and the American public do not support such haphazard legislation. There is no evidence of any benefit associated with this complex program. It is a program which is an unreasonable appropriation of a marketer's advertising space for a perfectly legal product.

The proposal contained in Senate bill 1929 is completely unwarranted. I strongly recommend that it not be adopted.

[The statement follows:]

STATEMENT OF DR. LARRY LIGHT, EXECUTIVE VICE PRESIDENT, TED BATES & CO., INC.

As a member of the advertising community, I see no justification for the provisions in S. 1929 which call for rotating warning notices in cigarette advertising and on packages. There is no evidence that there will be any benefit from this technically complex and cumbersome proposal.

First, I wish to address what appears to be a basic hypothesis—cigarette advertising somehow encourages people to smoke.

A review of available research and in particular a detailed econometric study of 20 years of data lead to one conclusion, "Advertising does not stimulate or maintain consumption levels" (*Waterson*, 1981). In addition, this review examined the effects of cigarette advertising bans. An analysis of data from 14 countries concluded that "every country in the world that has tried to reduce smoking by restricting tobacco advertisements has been unsuccessful" (*Waterson*, 1981). The evidence is clear. There is no correlation between levels of tobacco advertising and cigarette consumption.

Now, let us examine the rotational warning system proposed in S. 1929. A rotational warning system using sixteen different messages has been instituted in Sweden. There is no evidence that this scheme has had any effect on sales. To my knowledge, there is no evidence that the proposed rotational scheme would work in the United States, either. However, the FTC Staff's posture seems to be "let us try it and see what happens." This is flimsy logic for a complicated, cumbersome experiment.

The labeling and advertising proposals in S. 1929 apparently stem from the conclusion that public awareness of the claimed health consequences of smoking is inadequate. This conclusion is wrong.

All evidence indicates that the level of public awareness about smoking and health is high, by any standard. The existing Surgeon General's statement warns of the alleged dangers of smoking. Surveys show that awareness of these alleged dangers is over 90 percent. This is an extraordinarily high number. In a recent letter to the House subcommittee, Dr. Roper observed that the FTC staff has misinterpreted his survey results. The proper conclusion is that awareness is high, not low.

This extremely high awareness of the warning message is not surprising. I do not believe that there has been a single message that has had the level of advertising support that the Surgeon General's warning has had. Since 1971 the warning has appeared in hundreds of millions of dollars of advertising.

When I speak of "awareness," I do not mean that people memorize specific words. What people do remember is overall impressions. Consumers have registered the intended net impression of the Surgeon General's warning statement. They have done so because the statement has met the five fundamental advertising principles to produce effective messages: keep the message simple; make it clear; say it often; be consistent; and be single-minded. Thus, not only has there been an extraordinary amount of dollar support for the present statement for over 10 years, but sound

principles of good communication have been followed, as well. Therefore, again, I am not surprised that we have these extraordinarily high awareness levels.

The Staff of the FTC seems to be concerned that the warning may have "worn out." They apparently believe the old cliche, "familiarity breeds contempt." In advertising, just the opposite is true. Familiarity breeds trust. Consistency breeds confidence. But, unfamiliarity breeds uncertainty. And, inconsistency breeds confusion.

Marketers recognize the value of consistency. We are all familiar with the consistent symbols which represent "Coca-Cola," "Kodak," "Shell," "McDonald's," "Green Giant," among many. We remember the great care, the extensive research, and the obvious planning associated with Standard Oil's change from "Esso" to "Exxon." No company capriciously abandons an asset it has built over many years and at great expense.

The present warning statement in its white box, with its consistent type style, and its consistent set of words has appeared in the same form since 1972. It is now the Surgeon General's logo.

The value of this consistent asset has been demonstrated. The warning is instantly recognized and understood. This is so even when it is printed in a language foreign to most Americans.

The proposal in S. 1929 seems to be based on a simple premise. Since people are continuing to smoke, they must not be adequately informed about the claimed health consequences of smoking. Of course, this premise is wrong.

All of us have everyday experiences with ideas about which we are aware, but because of other information in our personal mental computer, we choose not to believe them. Awareness and belief are very distinct concepts. Analyses of the FTC Report suggest that the Staff consistently confused the concepts of awareness and belief.

The FTC's stated objective is to increase awareness of smoking and health issues. They believe that if awareness were increased, smoking would decrease.

But, advertisers know that many, many factors determine ultimate behavior besides awareness. People do not fasten their safety belts. People litter city parks. People walk when the signal clearly says "don't walk". Is the problem lack of awareness? No—it is not. It is a simple fact of human nature that awareness and knowledge are not adequate explanations of behavior.

Even if it were reasonable to expect a significant increase in awareness beyond the current extremely high levels, it is my opinion that the proposed rotational warning system would be unwarranted. There are no empirical data, no theoretical bases, no pragmatic evidence, nothing at all which support the proposition that the proposal in S. 1929 would achieve its intended objectives.

There is little chance that the rotational scheme will increase overall awareness. There is no evidence that the proposal will affect beliefs or behavior. There is no justification for implementing this social experiment. There is no justification for a proposal which constitutes no more than continued harassment of marketers of a legal product.

If public policy dictates that the information set forth in S. 1929 should be broadly communicated, there are a multitude of educational vehicles which can be used and are being used right now both by government and private health agencies, such as brochures, posters, films, material supplied to schools, publicity and so on.

It seems to me that the government has fulfilled its responsibility once it has informed the consumer. The government has the right to inform. Then, the consumer has the right to choose. The right to freely choose what to believe. The government's responsibility is to inform; it is not mind control.

Few Americans today would endorse the policy of legislation by haphazard experimentation. This seems to be a policy of, "Pay now. Pray later." Pay now for the cost. Pray later for some benefit. Hopefully, that philosophy of government is behind us.

There is no evidence of any benefit associated with this complex program. A program which is an unreasonable appropriation of a marketer's advertising space for a perfectly legal product.

The proposal contained in S. 1929 is completely unwarranted. I strongly recommend that it not be adopted.

The CHAIRMAN. Professor Cohen.

Mr. COHEN. Thank you. I am Joel B. Cohen. I am delighted to have been asked to present my views on this bill by the National Interagency Council on Smoking and Health. I am currently chairman of the marketing department and the director of the Center

for Consumer Research at the University of Florida. The center carries out an extensive research program in consumer behavior, and has focused particularly on the psychological processes involved in consumer information processing and decisionmaking.

I have had a long history of professional involvement within the American Marketing Association, the American Psychological Association, and the Association for Consumer Research, which is the leading interdisciplinary association of consumer behavior researchers. I was the first elected president of the Association for Consumer Research.

I have published extensively on cognitive processes involved in consumer decisionmaking, as well as on attitude formation and change in both marketing and psychology journals, and am frequently asked to review scholarly research in these subject areas for leading marketing and psychology journals.

My research on consumers' psychological reactions to smoking warning information dates back to 1965, when we studied consumers' responses to the Surgeon General's report on smoking and health. I served as an adviser to the National Academy of Sciences Panel on the Impact of Information on Drug Use and Abuse.

Over the last several years, I have looked at cigarette advertising and the provision of warning information in several capacities. First, at the request of the R. J. Reynolds Tobacco Co., I carried out an analysis of the psychological mechanisms underlying changes in cognitions and attitudes within the context of cigarette advertising. Second, at the request of the Federal Trade Commission, with Prof. Thomas Srull, I provided a detailed assessment of information processing issues involved in the communication and retrieval of cigarette warning information.

Much of the criticism of this bill seems to be of two types. One, people already know that smoking is dangerous to their health, so nothing more can be gained by providing this type of information, and two, providing a specific set of rotated health warnings will not be effective, and might actually have the opposite effect, and thereby lead to increased smoking. These are two critical arguments, and they need to be addressed.

In looking at the first issue, what do people know, others have focused on data from several surveys. I think it is important to avoid getting lost in a largely methodological analysis of survey research procedures and data. The important thing to note is that survey data bearing on what smokers know or do not know can only provide an estimate of the upper limit of information potentially available to them. Survey data can be very misleading if used for any other purpose. Survey questionnaires assess prompted or cued recall in which people respond to specific questions or cues. This situation is not at all identical to one in which a person must spontaneously recall information about a particular brand or product class.

Advertisers implicitly recognize this when they provide in-store cues that are intended to help people retrieve previously acquired information. In general, memory researchers typically make a fundamental distinction between availability and accessibility. Once information is fully comprehended and coded into long-term memory, it is thought to always be available. However, only a

small portion of the vast quantities of information that we learn is accessible at any given time.

That is, we are only capable of retrieving a fraction of the total information we have available. There is a great deal of information that people are able to retrieve when provided with specific cues that they are unable to retrieve in the absence of any cues. This means that responses to cued survey questions indicating that people remember that a warning message is present in cigarette advertisements cannot be taken as evidence that this information is accessible at the time of purchase; in other words, in an environment in which relevant cues are not specifically presented. There is a considerable body of research that demonstrates the proposition that information that is available is not necessarily accessible. People typically base their judgments on only a subset of the information that happens to be most accessible at that time. Thus, those factors that are most easily retrieved are most likely to be used in making a particular decision.

To the extent that advertising campaigns result in unique brand associations being most accessible, and to the extent that in store cues make brand-based information most likely to be retrieved, it then becomes crucial to strengthen cigarette warnings so that they can be more accessible at the time and place of purchase.

Concrete and rotated warnings are going to be far more effective. One of the most potent factors in increasing the likelihood that a piece of information will be spontaneously received is novelty. Everyone knows that. Information that is novel or unexpected seems to capture one's attention. It is processed more extensively.

The CHAIRMAN. Professor, you will have to conclude.

Mr. COHEN. Let me conclude by saying that I don't think we need to reinvent the wheel in response to this bill and develop an entire research program as if there were not research on the effects of novelty, concreteness, and personal relevance. There is an extensive literature, and this bill is based on sound research carried on over many years, all of which would support this bill.

[The statement follows:]

STATEMENT OF PROF. JOEL B. COHEN

I am Joel B. Cohen, I am delighted to have been asked to present views on this bill by the National Interagency Council on Smoking and Health. Since receiving my Ph.D. degree from UCLA in 1966 I have held tenured faculty positions at the University of Illinois and the University of Florida, where I am currently Chairman of the Marketing Department and Director of the Center for Consumer Research. The Center carries out an extensive research program in consumer behavior and has focused particularly on the psychological processes involved in consumer information processing and decision making. As part of my professional duties I teach a doctoral seminar on consumer information processing and decision making. I have had a long record of professional involvement within the American Marketing Association, the American Psychological Association and the Association for Consumer Research, which is the leading interdisciplinary association of consumer behavior researchers from a number of academic disciplines as well as industry and government. I was the first elected President of the Association for Consumer Research. I have published extensively on cognitive processes involved in consumer decision making as well as on attitude formation and change in both marketing and psychology journals. I am frequently asked to review scholarly research in these subject areas for leading marketing and psychology journals and in consumer behavior more generally for both the Journal of Consumer Research and the Journal of Marketing as a member of their editorial boards. My research on consumers' psychological reactions to smoking warning information dates back to 1965 when we studied

consumers' responses to the Surgeon General's report on smoking and health. I have had extensive involvement in survey research as well, and in this connection served as Vice-President and Director of the Social and Behavioral Science Division of National Analysts, a leading survey research organization. I served as an advisor to the National Academy of Sciences panel on the Impact of Information on Drug Use and Misuse. Over the last several years I have looked at cigarette advertising and the provision of warning information in several capacities. First, at the request of the R. J. Reynolds Tobacco Company I carried out an analysis of the psychological mechanisms underlying changes in cognitions and attitudes within the context of cigarette advertising. Second, at the request of the Federal Trade Commission with Professor Thomas K. Srull I provided a detailed assessment of information processing issues involved in the communication and retrieval of cigarette warning information. I understand that the report by Professor Srull and myself has already been introduced into the record, and I intend to base much of my testimony on its contents.

First, however, having now read some of the previous testimony dealing with both cigarette advertising in general and the proposed labeling and advertising requirements contained in this bill, I am compelled to make a few more general points. Much of the criticism of this bill seems to be of two types: (1) people already know that smoking is dangerous to their health, so nothing more can be gained by providing this type of information, and (2) providing a specific set of rotated health warnings won't be effective and might actually have the opposite effect and thereby lead to increased smoking. These are two critical arguments, and they need to be addressed.

Having seen some of the previous testimony, presumably addressed to the first point, I think it is important to avoid getting lost in a largely methodological analysis of survey research procedures and data. I hope I shall be able to convince you that the survey data bearing on what smokers know or don't know can only provide an estimate of the upper limit of information potentially available to them. Survey data can be very misleading if used for any other purpose, and I shall shortly explain why. A second general point that I would like to make at the outset is that no matter whose estimate of the health and economic costs of smoking we take as valid, it is clear that we are dealing with a major national public health problem. Accordingly, it does not seem sensible to evaluate this bill as to whether it will, in and of itself, completely remedy the problem or to require in advance the type of absolute proof that can only come after a program has been put in place and given a chance to work. I do not see this bill as a panacea. A combined program involving improved warning information and consumer education, with special attention to those just considering whether or not to start smoking would be even more effective.

In the comments that follow I'd like to address the broader (and I believe far more critical) consumer information processing issues that lie at the heart of this bill and not the largely tactical issues involved in monitoring each specific proposed warning to insure that it is optimal. I would hope that the Office of Smoking and Health or the Federal Trade Commission could be charged with that continuing responsibility.

I. CONSUMERS' EXISTING KNOWLEDGE OF SMOKING HAZARDS

Earlier I made the point that surveys can only give us an estimate of the upper level of information potentially available to consumers. This is because survey questionnaires assess prompted or "cued" recall in which people respond to specific questions or cues. This situation is not at all identical to one in which a person must spontaneously recall information about a particular brand or product class. Advertisers implicitly recognize this when they provide in-store cues that are intended to help people retrieve previously acquired information. In general, memory researchers typically make a fundamental distinction between "availability" and "accessibility." Once information is fully comprehended and encoded into long-term memory, it is thought to always be "available." That is, there are psychological mechanisms in the brain that permanently store and retain such information in the absence of some profound effect on specified regions of the brain. However, only a small portion of the vast quantities of information that we learn is "accessible" at any given time. That is, we are only capable of retrieving a fraction of the total information we have available. More importantly it is widely recognized that information that is accessible in one context or in response to a particular cue or prime will not be accessible in another. There is a great deal of information that people are able to retrieve when provided with specific cues that they are unable to retrieve in the absence of any cues. This means that responses to survey questions indicating that

people remember that a warning message is present in cigarette advertisements can not be taken as evidence that this information is accessible at the time of purchase (ie., in an environment in which relevant cues are not specifically presented). There is a considerable body of research that demonstrates the proposition that information that is available is not necessarily accessible. This research has been instrumental in leading many contemporary theorists to propose that virtually all "forgetting" is due to retrieval failure. Information that continues to be available simply becomes less accessible without the aid of relevant retrieval cues.

It is very important to realize that the crucial role of retrieval failure is not confined only to performance on memory tasks. Tversky and Kahneman have demonstrated in a series of papers that retrieval processes also play an imporant role in human judgment and decisionmaking. Without going into detail, these authors have demonstrated that people do not perform an exhaustive search of memory for all relevant information in order to make a particular judgment or decision. Rather, people typically base their judgments on only a subset of this information that happens to be most accessible at the time. Thus, those factors that are most easily retrieved are most likely to be used in making a particular decision. To the extent that advertising campaigns result in unique brand associations being most accessible, and to the extend that in-store cues make brand-based information most likely to be retrieved, it then becomes crucial to strengthen cigarette warnings so that they can be more accessible at the time and place of purchase. I would go so far as to suggest that it may even be an appropriate public policy goal for cigarette warning information to be accessible by consumers (and thus available for their consideration and evaluation) at times and contexts in which purchase decisions are made.

Existing warning information states only a very general, abstract conclusion whose personal relevance may be discounted. This warning information has not been materially changed in many years and hence is very "tired and worn" in comparision to the carefully crafted and destinctive cigarette advertisements used to promote smoking of various brands. There is no question, then, that the present warning message should have great difficulty competing for information retrieval with brand-based cigarette information at the point of purchase. This disadvantage is accentuated under time constraints and when a product is purchased almost habitually rather than following careful deliberation.

II. WHY PROVIDING CONCRETE AND ROTATED WARNINGS IS MORE EFFECTIVE

Retrieval may be thought of as the end point of a process that begins with attention and encoding of a stimulus. Therefore, factors that enhance attention to information and allow for elaboration and the formation of cognitive associations will increase the likelihood of unprompted recall. One of the most potent factors in increasing the likelihood that a piece of information will be spontaneously retrieved is novelty. Information that is novel or unexpected seems to capture one's attention, is processed more extensively, and subsequently is much more likely to be recalled than information that is redundant or expected to appear in a given context. For example, von Restorff found that almost any technique that served to increase the novelty of particular items or led them to be unexpected enhanced the subsequent recall of those items. This has since become known in the memory literature as the "von Restorff effect" and literally hundreds of studies have consistently replicated this same basic effect. It is an extremely robust retrieval phenomenon.

In this regard, it is worth noting that existing warning information is redundant in both form and content. That is, the warning inserts contained in cigarette advertisements and placed on cigarette packages have not changed in nearly a decade. Moreover, years of redundancy have presumably led smokers and nonsmokers alike to expect such labels on all cigarette-related materials. Interestingly, memory researchers have also known for some time that novel information not only captures more attention and is better recalled than redundant information, but it does so at the expense of other (redundant) information in the display. Since one's attention and processing capacity is limited, this necessarily means that less attention can be paid to immediately surrounding information. Since advertisements are continually changing and often contain novel verbal and pictorial material, it would not be surprising to find that many people are not even aware of seeing the warning label when looking at cigarette advertisements. In sum, cigarette advertisements are continually changing and often contain novel verbal and visual information that is likely to capture one's attention. In contrast, existing warning information has not been changed in years, does not contain any novel information, and is not likely to elicit much attention. Although such warning information may be recognized or recalled in response to direct probes, this is irrelevant since it is not likely to be spon-

taneously recalled at the point of purchase. To the extent that the point of purchase environment stimulates one to retrieve brand-based attributes and/or make a hurried decision, the likelihood of spontaneously recalling warning information is even further reduced.

By rotating a series of warnings, their content (and conceivably also their print style, color and other visual factors) may be kept far more novel and unexpected. It may even be the case that consumers make a point to specifically read the warnings just because they are curious as to which one was used. This is likely to generate a far greater amount of attention to the warning, and such a conscious search for information within an ad is likely to lead to a greatly increased level of information processing.

A second important factor leading to the same result is that the proposed warnings are far more concrete and personally relevant. Concrete information generally refers to single objects or events that are readily transformed into mental images. In contrast, abstract information generally refers to abstract concepts that are not readily transformed into mental images. For example, a picture is obviously concrete since it already contains a specific visual image. The issue is more general however. For example, the words "automobile" and "cigarette" are also very concrete, as it is very easy to form mental images of such objects. On the other hand, words such as "justice" or "hazardous" or "health" are very abstract and quite difficult to transform into mental images. The distinction between concrete and abstract information can also be applied to more complex types of information. For example, a picture of a cancerous lung would be very concrete, while a statistical summary of the number of deaths each year due to cancer would be very abstract. The evidence is now overwhelming that people readily form mental images in response to concrete stimuli and that such imagery has a number of important consequences. First, such concrete information is better remembered than abstract information. Second, concrete words serve as more effective cues than abstract words (i.e., a concrete word will be a better retrieval cue for information that is associated with it than will an abstract word).

These findings have a number of interesting implications for the present area of concern. For example, many cigarette advertisements contain rich photographic information. One would hypothesize that such pictures are processed to a far greater extent and are better remembered than the accompanying text. Similarly, concrete information involving specific people and events would be expected to be better recalled than abstract information that does not contain any specific referent. In this regard, it is important to consider that existing warning messages are extremely abstract in nature. They contain abstract words that are not as likely to bring to mind specific instances of personal relevance. Also, even if people once knew specific research findings concerning the dangers of cigarette smoking, such abstract warning labels would not be very effective cues for eliciting such information. In contrast, the concrete pictures and labels that are often used in advertising, packaging, and in-store displays would be expected to be much better cues in eliciting previously learned information about the associated brand. A rather large literature has accumulated in recent years indicating that people rely on concrete information to a much larger degree than they rely on abstract information in making judgments or decisions. Nisbett and Borgida report an extremely powerful tendency for subjects to manifest an over-reliance on concrete and a corresponding under-reliance on abstract information quite unlike the "rational economic man" generally assumed to be the decisionmaker. For example, subjects virtually ignore abstract descriptive information about a population of people in predicting the behavior of a single individual. On the other hand, subjects very readily use the behavior of a single individual to predict characteristics of the entire population. Interestingly, Slovic, Fischoff, and Lichtenstein have found that similar processes operate when people estimate the risk associated with various activities or events; abstract statistical summaries are largely ignored, while vivid individual cases are weighted quite heavily.

It is also interesting to note that advertisers often use vivid and concrete pictures of unusually vigorous and healthy-looking individuals who ostensibly live full and rewarding lives untroubled by any "hazardous" effects of smoking. This sort of a portrayal of a smoker is of course somewhat inconsistent with any personal manifestation of deleterious effects of smoking. Thus the abstract warning information may appear inconsistent with the "actual" effects of smoking on individuals with whom the consumer might identify. The research evidence presented above suggests that readers are easily prone to draw conclusions about the general population of cigarette smokers from these sorts of concrete examples. Existing research would certainly suggest that they are more likely to be used than the abstract warning labels.

It is a great deal easier to project oneself into the pictures of happy people enjoying themselves in a typical cigarette ad (and thereby encode pro-smoking information in terms that are personally relevant) than it is to find personal relevance in the present abstract warning. A number of recent studies have demonstrated highly significant effects of making information personally relevant. Concrete information is more easily visualized and related to one's life experiences and is therefore more personally relevant. Personally relevant information is attended to more readily and processed more easily than personally irrelevant information and it is better recalled. Personal relevance, then, will be enhanced by having the warnings refer to particular illnesses, since the consumer is more apt to bring to mind specific instances and other information regarding both the illness and people who have suffered from it. It is also important to include among the rotated warnings one which provides concrete information regarding the benefits of quiting smoking. There is a considerable amount of research on motivational factors in persuasion that indicates that steps to "solve the problem" should be included among the information given to alert people to the fact there is a problem. Otherwise, it is too easy to evade the problem and put it out of mind either because it is "too late" or because "there is nothing I can do about it."

In summary, the more attention getting, concrete and personally relevant the warning, the more it is likely to be thought about and the easier it will be to retrieve from memory. The importance of information encoding to subsequent retrieval cannot be stressed too much. It is possible to encode a stimulus, even an advertising slogan or a health warning, without extracting much information or elaborating the content of the message. The greater the personal relevance of the message, the deeper will be the processing and the greater the elaboration of (or thinking about) the message. This produces a far greater number of associations available in memory. Each of these can also play an important function as a retrieval cue. Thus, getting a person to think about the personal implications of information is a particularly effective strategy to enhance subsequent retrieval of that information.

There is no question in my mind that the proposed warnings are a significant improvement over the existing warning and that they are in keeping with well established findings in psychology. Given the rotational scheme, I don't believe there is any basis whatever for the claim that these warnings are more likely to be viewed by consumers as relevant only to others and irrelevant to oneself. In addition to the inclusion of a more specific version of a general warning which could apply to anyone, other warnings refer to specific illnesses whose incidences are high enough that personally relevant instances are likely to be brought to mind. In short, I think this is a major and long overdue step in the right direction.

COLLEGE OF BUSINESS ADMINISTRATION,
UNIVERSITY OF FLORIDA,
Gainesville, Fla., May 12, 1982.

Hon. BOB PACKWOOD,
Chairman, Senate Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: Unfortunately there was an inadequate opportunity in Monday's hearing to counter some serious errors in the testimony given regarding the Comprehensive Smoking Prevention Education Act of 1981 by several industry witnesses. I think it is important for me to call your attention to certain information which I believe will be helpful in setting the record stright.

1. Industry witnesses continually talked about figures in the range of 90 percent when referring to the level of peoples' awareness of various health hazards. Such estimates are, of course, extremely imprecise since there are a number of health hazards and the levels of knowledge differ somewhat for each (see the FTC staff report). More importantly, I believe I have demonstrated that reliance on cued survey research questions (eg., "Are you aware/do you believe that smoking causes ——?") are very misleading. If I were to survey people and asked whether they thought oxygen was important to their health I'm sure we'd get about 100 percent agreement. If, instead, we asked what things are important to their health, oxygen would simply not come into their minds. This information—which is known and therefore available—is simply not accessible in the absence of the right cues. A good deal of harm is probably done to the environment, to others and to themselves by people who at one level "know better" but who, unless it is brought to their specific attention, simply do not take such information into consideration. Another way to put it, then, is that there is much information people have which is not at a level of awareness and therefore requires specific cues to elicit it.

The evidence that this is true for health hazards resulting from smaking can be found in peoples' responses to open-end survey questions where there are fewer cues

given (i.e., Note, though that there may still be cues transmitted earlier in the survey which give rise to expectations about what the researcher interested in). For example, on page 3–30 of the FTC staff report we see that about ⅓ of the sample in the 1980 Roper study did not know that smoking causes heart attacks when an *aided* recall question was used. However, "about ⅔'s of the sample did *not* respond 'smoking' when asked to name all the causes they could think of for heart attacks." Thus, not only have the industry witnesses been extremely imprecise in their figures regarding upper limits of consumer knowledge, but by focusing on aided recall data in the first place a totally misleading impression is created as to what information people are really aware of and incorporate into their judgments. Frankly, if people were asked something like the above unaided open-end survey question "cold" (i.e., so that no cues of any kind were created earlier in the questionnaire) it would be my opinion that the number of people who stated that smoking causes heart attacks would be significantly lower than 33 percent.

2. Mr. Light emphasized how important consistency is in presenting advertising messages. To illustrate this he produced as an exhibit a cigarette ad in Japanese but containing the white box (which contains the warning information) that people have associated with cigarette advertising for some time now. He then reported that American consumers who saw the ad responded correctly when asked what information was in the box. Mr. Light used this to argue against changing the present warning message because he claimed that switching from the tried and true message would only confuse consumers. But his own example argues for the opposite conclusion. It is enough to retain a consistent presentation strategy. The box in a cigarette ad now functions as a superb symbol to alert people to a health warning contained within. In fact, the message could even be in a foreign language and people would still recognize that it was a health warning. So the unmistakable conclusion that should have been drawn from the evidence he introduced together with my own carefully documented testimony is that the principle of advertising consistency (eg., "familiarity breeds trust...confidence") can be met by retaining the symbol of the white box (or perhaps even just the outline of a box in a cigarette ad), and the crucial importance of message novelty, concreteness, and personal relevance to attention, elaboration and subsequent retrieval of the information can be achieved by using the proposed system of rotated warnings.

There were a number of other points that I would have liked to make in an effort to clarify the overall record, but I consider these of sufficient importance that I am calling your attention to these in order to correct an otherwise very misleading set of testimony.

Sincerely,

JOEL B. COHEN,
Professor and Chairman,
Director, Center for Consumer Research.

The CHAIRMAN. Mr. Sharp.

Mr. SHARP. Mr. Chairman, my name is Charles Sharp and I am appearing here today to testify in support of S. 1929, the Comprehensive Smoking Prevention Education Act.

I am currently president of Charles Sharp & Associates, a management consultant firm which specializes in locating management and creative executives for top advertising agencies and marketing firms in this country. I have worked in the advertising industry for more than a decade. For close to 7 years I worked as an account executive for the Tracy-Locke Advertising and Public Relations Agency in Dallas, Tex., where I was responsible for accounts such as Frito-Lay and Texas Instruments.

I have also worked as an account supervisor for Bozell & Jacobs Advertising & Public Relations, Inc. and as a vice president and management supervisor for Ogilvy & Mather, Inc. While with Ogilvy & Mather, I was responsible for the Mattel Electronics and Shell Oil Co. advertising accounts.

In 1978 the "Come to Shell for Answers" campaign which was developed under my direction was awarded the American Marketing Association's Effie Award, the American Advertising Feder-

ation's Addie Award, the Saturday Review's Distinguished Advertising to the American Public Award, Marketing Communications Magazine's Corporate Advertising Campaign of the Decade, and our own company's prestigious David Ogilvy Award for Creative Excellence.

The now-famous Dorito advertising campaign developed under my direction for Frito-Lay in the early 1970's featuring the moustachioed Avery Schreiver is widely acclaimed as one of the industry's most successful advertising efforts in expanding an existing product's market.

I want to thank the chairman and the members of the Commerce Committee for asking me to present my views on the need for and the merits of S. 1929. In my testimony I would like to focus on three basic issues. First, advertising most definitely does play a significant role in expanding and maintaining the market for cigarette smoking in this country.

Second, from the view of basic advertising principles, the current generalized health warning has become ineffective due to wearout, and the disease-specific rotational warning system proposed by S. 1929 is much more likely to be effective in communicating the health hazards of smoking.

Also, the system of rotational warnings proposed by S. 1929 will not impose a substantial administrative or financial burden on the cigarette industry or their advertising agencies.

First, I would like to address the role of cigarette advertising in this country. In 1979 cigarette advertisers spent over $1 billion—that is $1 billion—promoting their products. Between 1975 and 1979, these advertisers doubled the amount of money they spent on advertisements in newspapers and billboards, which enabled them to become the dominant force in all three media.

At the same time, cigarette advertisers generally expanded their sponsorship and association of their products with a wide range of activities engaged in by young and active Americans, such as the Virginia Slims Tennis Tournament circuit and the Kool Newport Jazz Festival and numerous other special events, all designed to increase exposure to their brand identification programs.

A review of cigarette advertising reveals to me that they communicate their message about smoking in a variety of attention-getting, frequently changing formats. Their ads are rich in thematic imagery and portray the desirability and acceptability of smoking by associating it with the latest trends in lifestyle, fashion, entertainment, as well as associating smoking with youthful vigor, social, sexual and professional success, intelligence, beauty, sophistication, independence, masculinity, and femininity, just to name a few.

The advertisements are filled with exceptionally attractive, healthy looking, vigorous young people who are both worthy of emulation and free of any concerns relating to health, and who are living energetic lives filled with sexual, social, and financial success and achievement.

For the sake of time, I will not show you the samples I brought with me, but I do have them here to show you.

Why is this advertising approach significant? By depicting a product as an integral part of a highly desirable lifestyle and per-

sonal image, an advertiser will attract individuals who do not currently use that product but who want to identify with or emulate that lifestyle and project the depicted image. Thus, ads which effectively associate smoking with the latest trends or ideas or with sophistication, sexual, social or athletic success and happiness will attract smokers and nonsmokers alike who want to be like the people in the ads.

This phenomenon is particularly applicable to young people because advertisers are well aware that young people seek to emulate the most modern trends and project an image similar to those images projected in many cigarette ads.

I notice my time is limited, so I will skip ahead and try to hit just the highlights of the other two points in my argument.

First of all, the warning rotation of the cigarette advertising as proposed in S. 1929 does not call for a major change in advertising principles or practices. I think this bill calls for the changing of messages within the existing format and physical dimensions of existing framework of cigarette advertising. Thus, I could only conclude from basic advertising principles that we are not changing the campaign, we are providing more information from which to make an intelligent decision.

Also, from my experience in the advertising business, the administration and the accommodation of this bill does not present a significant encumbrance upon the cigarette advertising industry or its advertising agencies in administering the program or even accomplishing the program.

In conclusion, I believe that S. 1929 does not represent harassment of the tobacco industry but an effort to allow the members of that industry to further demonstrate good corporate citizenship by providing the American pubic with precise, important and new information concerning the health risks associated with cigarette smoking.

Thank you.

[The statement follows:]

STATEMENT OF CHARLES CRENSHAW SHARP OF CHARLES SHARP & ASSOCIATES

Mr. Chairman, my name is Charles Sharp and I am appearing here today to testify in support of S. 1929, The Comprehensive Smoking Prevention Education Act. I am currently the President of Charles Sharp and Associates, a management consultant firm which specializes in locating management executives for the top advertising and marketing agencies in this country, including Foote, Cone and Belding, McCann-Ericksen, Doyle, Dane and Birnbach and the J. Walter Thompson Advertinsing Agency. I have worked in the advertising industry for more than a decade. For close to seven years I worked as a broadcast media supervisor and account executive for the Tracy-Locke Advertising and Public Relations Agency in Dallas, Texas where I was responsible for accounts such as Frito-Lay and Texas Instruments. I have also worked as an account supervisor for Bozell and Jacobs Advertising and Public Relations, Inc., and as a Vice-President, Management Supervisor for Ogilvey and Mather, Inc. For Ogilvey and Mather, I had primary responsibility for handling the Mattel Electronics and Shell Oil Company accounts. In 1978, the "Come to Shell for Answers" campaign which was developed under my direction was awarded the prestigious "David Ogilvey Award for Excellence." The now famous Dorito advertising campaign developed under my direction for Frito-Lay in the early 1970's is widely acclaimed as one of the industry's most successful advertising efforts in expanding an existing product's market.

I want to thank the Chairman and the members of the Commerce Committee for asking me to present my views on the need for and the merits of S. 1929. In my testimony I would like to focus on three basic issues. First, advertising plays a sig-

nificant role in expanding and maintaining the market for cigarette smoking in this country. Second, from the view of basic advertising principles, the current generalized health warning is ineffective and the disease specific rotational warning system proposed by S. 1925 is much more likely to be effective in communicating the haelth hazards of smoking. And, third, the system of rotational warnings proposed by S. 1929 will not impose a substantial administrative or financial burden on cigarette advertising.

First, I would like to address the role of cigarette advertising in this country. In 1979 cigarette advertisers spent over one billion dollars promoting their product. Between 1975 and 1979 these advertisers doubled the amount of money they spent on advertisements in newspapers and magazines and on billboards, which enabled them to become the dominant force in all three media. At the same time, cigarette advertisers greatly expanded their sponsorship and the association of their product with a wide range of activities engaged in by young and active Americans, such as the Virginia Slims Tennis circuit and the Kool Newport Jazz Festival.

A review of cigarette advertisements reveals that they communicate their message about smoking in a variety of attention getting, frequently changing formats. The ads are rich in thematic imagery and portray the desirability of smoking by associating it with the latest trends in lifestyle, fashion, and entertainment as well as associating smoking with youthful vigor, social, sexual and professional success, intelligence, beauty, sophistication, independence, masculinity and femininity. The ads are filled with exceptionally attractive, healthy-looking vigorous young people who are both worthy of emulation and free of any concerns relating to health and who are living energetic lives filled with sexual, social and financial success and achievement.

Why is this advertising approach significant? By depicting a product as an integral part of a highly desirable lifestyle and personal image, an advertiser will attract individuals who do not currently use that product but who want to emulate that lifestyle and project the depicted image. Thus, ads which effectively associate smoking with the latest trends or ideas or with sophistication, sexual, social, or athletic success and happiness will attract smokers and non-smokers alike who want to be like the people in the ads. This phenomenom is particularly applicable to young people because advertisers are well aware that young people seek to emulate the most modern trends and project an image similar to those images projected in many cigarette ads. In short, if I were to consciously set out to develop a series of advertising campaigns to attract young people to smoking and to create an environment in which smoking becomes a socially desirable attribute for young people, I would do precisely what cigarette advertisers are doing today. Given the number of smokers in this country and the continuing peer pressure on young people to smoke, despite the overpowering medical evidence, it is apparent that these ads have been highly effective.

Cigarette manufacturers are also directing their ads toward women. The success of this effort is apparent when one considers the substantial increase in women smoking over the past two decades. Cigarette ads associate smoking with liberation, independence, professional success and sensuality in women, thereby, directly targeting the many women for whom these attributes understandably are long sought after goals. The theme of these ads to non-smokers is unmistakable: If you want to be as successful, liberated and as happy as we are, you should smoke.

Second, from the viewpoint of a person who has spent much of his life in advertising, I would like to discuss a number of widely accepted advertising principles which indicate why the current health warning is ineffective and why a system of disease specific rotational warnings is more likely to be effective.

It is uniformly accepted among advertisers that for an advertising message to be communicated effectively, it must be changed periodically or else it will soon become so familiar that it will "wear out." Once a message "wears out", it will not be noticed and will not maintain the consumers interest. The current warning is unquestionably "worn out." In contrast, cigarette advertisements are changed frequently to maintain interest and noticeability. Consistent with this principle, information which is perceived to be novel or less expected is more likely to catch a reader's attention. The least novel element in any cigarette ad is the current health warning which has been altered in over a decade.

To be effective an advertising message also must be easy to understand and perceived to be personally relevant to the reader. The most effective ad is one that is written as if the advertiser were writing to one individual rather than to an amorphous mass audience. To be easily understood, thought-provoking and considered as having personal relevance, ad advertising message must be very specific. The more specific it is, the more effective it will be. In the case of cigarette health warnings, a

warning label must address specific recognizable illnesses to which people can individually and personally relate in order to attract their attention. In addition, unless the label contains specific consequences to think about, the reader is not likely to think about the health warning at all and it will have little, if any, impact.

To be easily understood, a health warning also must be short and concise. Longer health warnings containing numerous facts are more difficult to comprehend and less likely to be read. This principle is particularly true with warning labels in cigarette advertisements because most cigarette ads seek to communicate their message through the projection of an image or scene rather than through the use of detailed text. Thus, a reader will spend too little time focused on any one cigarette ad to read and comprehend a long, detailed health warning.

By all of these standards, the current warning is ineffective. Not only is it "worn out", it is too general and too abstract to attract a reader's attention or to be perceived as having any personal relevance to the average reader. The skill of advertisers in placing the current warning in a location within their ad where it is least likely to be effective and in creating ads capable of overpowering the current, weak warning contribute to its ineffectiveness. A 1978 article in Advertising Age describing a Christmas advertisement for Marlboro aptly summarized the situation:

"A valley of snow holds a log farmhouse under a blanket of white. Smoke rises in the still air from the chimney. A lone cowboy rides his horse through the untouched virgin snow, dragging a Christmas tree by a rope . . . It's hard to imagine a more evocative American image, even though the white boxed cancer warning in the right hand corner has stained the snow yellow. The reflective pleasure of tobacco pervades the ad. It unifies the desire for a perfect Christmas with the experience of smoking. The Surgeon General has no chance against this."

In contrast, the disease specific rotational warning system proposed by S. 1929 is much more likely to be effective. The use of several warnings will decrease the likelihood that any of the messages will "wear out." All of the proposed warnings are short, concise, easily understood, disease specific and more likely to be both noticed and perceived as being personally relevant.

Finally, I would like to address some of the practical considerations posed by S. 1929. Given the flexible approach taken by Section 4(a)(2) in permitting advertisers wide latitude in how they carry out the rotational warning requirement as long as each warning appears an equal number of times on each brand of cigarettes and in all such advertisements within a fifteen month time period, the direct costs of compliance should be de minimus and the technical problems and the administrative burdens non-existent. When the warning is changed at the same time the ad is made, the ad will not cost any more to produce than it would at the present time. This fact is significant because advertisements are changed very frequently and a single ad almost never runs unchanged for more than a quarter of a year. Thus, in the vast majority of the cases, the adoption of S. 1929 will have no effect whatsoever on the cost of producing cigarette advertisements.

Even in the rare case in which a warning would be changed in an existing ad, no problems are posed. Technically and from the standpoint of cost, it is a simple matter to replace what is printed in the small rectangular, black and white box containing the health warning. As a matter of fact, advertisers regularly make changes in ongoing ads. In many instances, one advertiser will make changes in a single ad which appears in a single issue of a national magazine, such as "Time" or "Newsweek", to best target different geographic regions of the country. Again, changing the health warning at the same time the ad is being changed for some other purpose imposes not additional cost or burden on the advertiser.

The same is true for outdoor advertising and cigarette packages. There are two basic forms of outdoor ads: billboards made from poster paper and painted billboards. I have worked extensively with billboard advertising. Most billboard contracts call for billboards made from a number of squares of poster paper. These contracts uniformly require the posters to be changed at least every four to six weeks. Rotation of the health warning at the same time the poster paper is being changed is simple and involves no cost. In addition, billboard contracts also often require the billboard company to rotate different ads among several billboards to increase their exposure, thereby, further demonstrating the ease with which the rotational warning system can be implemented. It should also be noted that even painted billboards are repainted no less than two to three times a year and, given the flexible approach taken by S. 1929, compliance with its requirements on painted billboards should pose no problem.

To understand how little problems S. 1929 poses for the manufacturer of cigarette packages, it is helpful to understand how these packages are printed. Packages are not printed one at a time. They are printed by a plate which stamps out a large

number of packages at a single time. To comply with S. 1929 a manufacturer could simply use a plate which contains all of the warning messages and which would stamp out approximately the same number of packages with each warning at the same time. If the implementation of S. 1929 gave these printers sufficient time so that this new printing plate could be introduced at the time the old one wears out, the cost of compliance would be minimal.

In conclusion, I strongly support S. 1929 as an effective, needed low cost method for communicating the health hazards of smoking to the American public.

The CHAIRMAN. Mr. Horrigan, do you think the present Surgeon General's warning works?

Mr. HORRIGAN. Yes, sir, I do.

The CHAIRMAN. Do you think it should be kept?

Mr. HORRIGAN. We believe it should be kept.

The CHAIRMAN. Dr. Light, let me ask you the same question. Does it work?

Dr. LIGHT. As I understand the objective of making people aware of the alleged correlation between smoking and health; yes.

THE CHAIRMAN. Should it be kept?

Dr. LIGHT. Yes.

The CHAIRMAN. I am curious that when this was originally passed, both the tobacco and the advertising industries opposed even the present warning. Mr. Horrigan?

Mr. HORRIGAN. Mr. Chairman, I was not in the tobacco industry at that time, but if I were to go back and trace the circumstances, and in some ways those circumstances have not changed today, the basis, I think, for being in opposition to the imposition of a warning notice was that in the opinion of the industry and the research available to it, there was no scientific basis for such a warning notice to be on our product.

By the same token, our industry recognizes that there is indeed a controversy. I think it was on the basis of that that the Surgeon General's warning went on the pack.

I think the industry's position remains unchanged today in opposing the imposition of these new labels because there is still a scientific debate. There is no scientific basis for the imposition of the proposed warning labels.

The CHAIRMAN. Is there any scientific evidence at all that there is any harm from the smoking of cigarettes?

Mr. HORRIGAN. There is a great deal of statistical evidence, but there is a multitude and abundance of scientific data that challenges that which has been used against the tobacco industry.

The CHAIRMAN. In that case, why should we keep the warning?

Mr. HORRIGAN. Because in our belief 90 percent or more of the public is aware of the controversy or the alleged health effects of smoking. However, as a responsible manufacturer, a responsible industry, as long as that controversy exists and there is legislation requiring this warning, I think we must act responsibly.

The CHAIRMAN. But that controversy existed at the time of the initial Surgeon General's report, and yet the tobacco industry opposed even this warning.

Mr. HORRIGAN. That is correct.

The CHAIRMAN. Why didn't a responsible industry at that time support it?

Mr. HORRIGAN. Repeat that question again, sir? I am sorry.

The CHAIRMAN. The tobacco industry has opposed this warning from the beginning. If there was a danger, if there was some reason to believe after the first Surgeon General's report that there was a danger, why the opposition of the tobacco industry then?

Mr. HORRIGAN. I think I said earlier that the opposition was on the basis that despite the publicity, the data and the reports, the industry maintained that there was not a scientific basis to put the warning on.

The CHAIRMAN. Is that still the industry's position?

Mr. HORRIGAN. Absolutely, sir.

The CHAIRMAN. Then why should we have the warning now? Why have you changed your position?

Mr. HORRIGAN. Because as a responsible industry, if in fact this has been decreed by Congress that there is a controversy existing or a belief in the minds of many people, then as a responsible industry we believe that we should honor such decrees and put that on our pack. I think that is being responsible.

The CHAIRMAN. If I understand your statement, the evidence was not adequate at the time of the first Surgeon General's report and it is not adequate now in terms of whether there is any danger to health. Have the circumstances not changed between the first Surgeon General's report and now?

Mr. HORRIGAN. The circumstances with regard to our belief on this issue have not changed.

The CHAIRMAN. Then I do not understand why now you say a responsible industry should put this warning on when there is no evidence to justify it in your mind, while 17 years ago that was not the position of the industry.

Mr. HORRIGAN. I mentioned earlier that I was not in the industry at the time that this issue first arose, and I would have to say as a businessman who has been involved, I think, in the marketing of responsible products in other industries over many years, if I had to go back to those first days, I think the industry perhaps should have taken a stronger stand with regard to it because there was no scientific basis.

Be that as it may, it did happen, and if it is on the pack and there is this concern, then we would continue to respect those wishes.

The CHAIRMAN. Dr. Light, why was the advertising industry opposed to the present warning before and apparently you support it now?

Mr. LIGHT. The issue is not whether we would support or oppose the warning. The real issue is that it seems unreasonable as a matter of principle to me that advertisers should be asked to advertise against themselves. If public policy dictates that the information set forth in this bill at this time, were then, and at that time to be broadly communicated, then I think the industry's position was then and should be today that there are a multitude of more appropriate vehicles which can be used and are being used right now by both Government and private health agencies, things such as brochures, posters, films, and materials supplied to schools, and publicity and so on.

Now having said that, I believe that principle is just as valid today. The fact is that we have a warning on the pack, and that by itself changes the circumstances.

The CHAIRMAN. What do you mean by that by itself changes the circumstances?

Dr. LIGHT. We have a warning. You have as a matter of public policy dictated that a certain amount of advertising space will be appropriated to communicate a certain message.

The CHAIRMAN. I want to make sure I understand the answers you gave previously. You indicate that that message is effective and it should be kept; is that correct?

Dr. LIGHT. What we have indicated is that the intended message that is in the warning has been communicated. I do not know what role the warning by itself has played, but what we do know is that by a combination of brochures, posters, films, materials, publicity, public relations, speeches, coverage of hearings like these, a message has been communicated. Ninety percent of the people are aware of the intended message that is carried in that warning.

All the research suggests that not only are they aware in general terms but that over three-fourths of the public are remarkably aware of specific diseases alleged to be associated with smoking. Eighty-seven percent of the people are of the view that smoking can affect in some way the smoker's baby if she is pregnant. Over 90 percent believe that heart disease has been found to be associated with smoking.

I am not saying that those two particular impressions came specifically from the warning statement, but I am here to say that it would seem, given all that, unnecessary, against common sense, and silly, if you ask me as an expert, to now imagine that changing the warning statement would make that "90 percent" into a "100 percent."

The CHAIRMAN. Senator Ford.

Senator FORD. You go ahead.

The CHAIRMAN. I still do not understand your answer. You would keep the present label, or would you not?

Dr. LIGHT. What I am suggesting is that if public policy dictates that there be a label, we should keep the label as it is.

The CHAIRMAN. Of course, you would if the law requires it. What do you advise about the law? Should we repeal the law or keep it?

Dr. LIGHT. I am not here as a lawyer. I don't know how to advise you on that. As an advertising expert, however, I would say that if an advertising campaign theme achieved this kind of awareness, we would be very careful and very cautious about capriciously and arbitrarily adopting a cumbersome scheme in the hope that 90 percent may become 92 percent.

The CHAIRMAN. What does that mean, translated? That if we had a successful warning label that has worked for a long time, you have 90 percent penetration, don't break up the Yankees?

Dr. LIGHT. Well, there is an expression I have learned from Mr. Horrigan in the South, apparently.

"If it ain't broke, don't fix it." And there is no evidence that this one is "broke."

The CHAIRMAN. Except that had we followed the advice of the advertising industry initially, we never would have had this at all.

Dr. LIGHT. I don't know that that is true.

The CHAIRMAN. Well, they opposed it in testimony before this committee when we initially held hearings on it.

Dr. LIGHT. Well, I was not here, but I don't know that we would not have had these same numbers. I do know that there is a high level of communication of the intended message, and now to communicate in an inconsistent, random way would certainly violate commonsense and good advertising practice.

The CHAIRMAN. Mr. Horrigan, you told Congressman Waxman's subcommittee, and I am quoting, that smoking is an adult practice. What do you mean by that?

Mr. HORRIGAN. It has been our position, Mr. Chairman, that we believe that smoking is an adult practice. There are certain practices or pastimes for which people should wait until they are mature enough to make certain decisions, and we have maintained all along that that was our position with regard to smoking and that a person should wait until they are of, say, an adult age and mature enough to make an informed decision.

The CHAIRMAN. If there are no adverse health effects associated with smoking, why wait until you are an adult?

Mr. HORRIGAN. The point that we make is that there are many, let's say, pastimes, such as drinking, and then the controversy and the effectiveness of the Government and antismokers in their campaigns to create a climate about our product. That being the case, then as responsible manufacturers, we would prefer that people wait until they are mature enough to make that decision.

That is our position, and our programs, I believe, support that, Mr. Chairman.

The CHAIRMAN. What do you mean by that?

Mr. HORRIGAN. Continuing programs. I can take the past——

The CHAIRMAN. Do I take that to mean advertising is not aimed toward the young?

Mr. HORRIGAN. That is right. If I may for a moment, and certain information I would put forward here is in a sense proprietary, but to take you into the marketing of cigarettes, we have said, despite people who take issue with us, that our advertising and our marketing is designed to compete within the present marketplace, which is growing at a very, very slow rate right now.

But we segment the market, and the segmentation that we use in our marketing to develop marketing strategies, I will make a point very clearly here that not one of those segments, and there are many, is the youth segment. And as a marketer, if indeed we were to be marketing to youth, there would be such a segment.

Our segments are divided by brands and brands that compete against each other for a certain kind of consumer.

The CHAIRMAN. Have you ever had any discussions in your company about targeting an advertising program specifically toward youth? I want you to think very carefully before you answer this question. Have you ever had any discussions in your company about an advertising program targeted directly toward youth?

Mr. HORRIGAN. The basic advertising that we have, first of all, we talk about young adults for certain brands. I also am aware, I believe, of a report that came out, and I have forgotten the year now, to be honest, there was a report that came up, I think, as a

result of an FTC review of this issue, and there were some marketing statements in there, but in fact there was never an executed campaign based upon this report. That was 1977.

The CHAIRMAN. I am talking about your company.

Mr. HORRIGAN. I am talking about my company.

The CHAIRMAN. There was a discussion of an advertising program aimed toward youth, you considered it, and for whatever reason, you say you dismissed it; but you considered it.

Mr. HORRIGAN. We need to be careful when we say we considered something, Mr. Chairman. You have a staff. I have a large organization, and many times different subjects are brought up for different reasons, different motivations. But the key is implementation or execution. And if you are asking me about implementation and execution, then there is no such case that you can make on that here this morning.

The CHAIRMAN. Wendell?

Senator FORD. I think I will start now.

Mr. Horrigan, let's pursue the questioning a little bit of Chairman Packwood. The FTC report outlined five possible remedial options, including a voluntary industry self-regulation. However, they dismissed this option, saying that the industry has not developed and is not likely to develop effective mechanisms to disseminate health information in cigarette advertising.

What voluntary steps has the industry taken in the past, and does the industry anticipate any voluntary action in the future?

Mr. HORRIGAN. I started to answer that question before and I allowed myself to move off the subject, but I would like to take the past, the present and also the future in answering your question.

With regard to the past, I think we've demonstrated an ability to be self-regulating and to be aware of the pressures and perceptions about our industry. We can put forward, for example, our cigarette sampling program, and the industry has a self-imposed, self-regulated cigarette sampling program.

And I would add that because of the competitiveness of our industry, we watch each other very carefully for any infractions or mistakes that happen in the distributions of such samples. Samples, for example, are not distributed to anyone under 21 years of age, and proof is required if there is a question. That is No. 1.

No. 2, speaking again about the past, and this relates to the present, in our advertising we have a rule that no one appears in our ads unless they are 25 years old or older, and along with that, in casting for those ads we no longer use celebrities such as the gentleman that was put forward in the Chesterfield ad this morning, nor do we use the sports figures that people might revere.

Third, and this is very recent but it could very well develop into another extension of our commitment and demonstration that we are self-regulating, obviously as we are here this morning there are many perceptions and charges against our industry, and we feel the need, just as our anti's or zealots feel the need to inform the public, we feel the need also to air the other side.

We have a campaign of six ads and they are running now in major magazines, and they address the most frequently asked questions about attitudes towards smoking on the part of smokers and

nonsmokers. One of those ads, I think, might be available in larger form. That is:

Does Cigarette Advertising Cause Kids To Start Smoking?
That ad clearly states our position.

The ad has been carefully researched, as have the other ads in the campaign. And looking ahead to the future, Senator, if as a result of this we see a need for our industry to exhibit in some other way a commitment toward our position about youth and advertising, we would in fact commit to such programs. We have in the past and we will in the future.

Senator FORD. Mr. Horrigan, you have stated that advertising by the individual tobacco companies is aimed at brand preference and brand switching. My knowledge of the industry is that the brand preference advertising is very competitive. Would you explain for the committee why the current advertising on behalf of tobacco companies is not aimed at encouraging new smokers?

Mr. HORRIGAN. Because of the basic industry position that we believe it is an adult decision, and therefore advertising is very competitive head to head for brand competition as opposed to any appeal that would bring in youth. There are no sampling, there are no promotional devices that would develop a marketplace within the youth segment.

Senator FORD. Mr. Horrigan, there have been several references in these hearings about the amount of money that the cigarette manufacturers spend on advertising and the large increase in that spending after the industry ceased advertising on radio and TV. How many brands are now on the market?

Mr. HORRIGAN. In excess of 200.

Senator FORD. And what is the average expenditure for advertising for each brand? Do you have that figure handy?

Mr. HORRIGAN. I have it in a different way because this came up at another hearing, Senator, because when people throw around the $1 billion that is typical of ad agency execs who love to see those kinds of billings from any company, but I think we need to put it in perspective.

There were about 120 brands back in 1968 when the ad budget in the industry was in the range of $300 million. Now our total is $1 billion, which is correct, but against over 200 brands and brand styles and taking into consideration inflation, the rate per brand in 1980 is equivalent to the rate per brand in 1968. So there has been no dramatic escalation on a per-brand basis in support of our business.

Senator FORD. Would you clarify what you meant when you said the rotating warnings are technically unworkable? The language in the bill in section 4 is confusing to me, as it must be to you. Just what does it mean to require that all warnings "appear an equal number of times in all brands and all advertisements"?

Mr. HORRIGAN. Happily, I am the chairman of the company, Mr. Senator, and not in charge of the media department, because my point is that with regard to the clumsiness of this plan I think we have a panel assembled here following us that is far more experienced in the nuances of this, and they will elaborate very clearly on how unworkable and how clumsy this plan is.

But I can only say that regardless of marketing sophistication, computers, et cetera, there is no process by which we could pinpoint precisely the needs and requirements of this bill and not leave ourselves dangerously exposed because of this legislation.

Senator FORD. Let me shift a little bit, if it is all right, Mr. Chairman.

Dr. Blackwell, the FTC report stated that less than 3 percent of adults exposed to cigarette ads read the warning label. Yet 90 percent of the public is aware that smoking may be harmful to their health. It would therefore appear that warning labels are not the most effective means of giving information to the public.

What do you believe would be the most effective means?

Dr. BLACKWELL. The most effective means is probably parents and peers. And one of the things that the current warning does by making a very direct statement that "The Surgeon General has determined that smoking is dangerous to your health" is allow parents to talk with their children very specifically.

When we add great complexities we cloud the issues. And more specifically, if we add issues about heart disease and cancer and things that mostly refer to older people, because the mortality rates are dramatically higher there, then we are making it much more difficult for parents to sit down with their children and say, it is dangerous to your health.

At the present time, we have a statement that applies without equivocation and the present one works, as we said, with 90 percent or whatever the number may actually be. But any change in that causes the possibility for young people and many older people to say, well, that is someone else, and human nature is to say, well, that applies to somebody else, not me.

So I believe that the proposed changes would in fact be counterproductive.

Senator FORD. Well, so you would say that this piece of legislation would drastically reduce the impact of the warning statement, then, to young people?

Dr. BLACKWELL. I am not so sure I would go so far as to say it drastically reduces it, but it certainly does not help it, and it does raise some risk that——

Senator FORD. Let us leave out the word "drastically." You believe this legislation would reduce the impact of warning statements to young people?

Dr. BLACKWELL. Yes, I think so.

Senator FORD. Do you believe the report is flawed in that it expects total knowledge of statistics relating to smoking?

Dr. BLACKWELL. That is a basic flaw in that study. In my written statement I give a number of examples of that, but the FTC has missed the difference between belief and awareness. In one particular instance, for example, in the 1980 Burke Research Focused Group study, there was this quote at page 4: "Further doubt about the direct relationship of smoking and cancer seems to be related to the fact that these persons had known smokers who had lived long lives without contracting cancer and nonsmokers who had suffered from that disease."

In other words, a person could say, yes, I am aware that those statistics exist, but I do not believe them because I have seen

people who do not. My wife is now suffering from cancer and my father has had a heart attack, and neither one of them are smokers. And it is hard to say that just because you read the statistics that you accept them.

And in fact, the FTC report had many statements about that and others which I demonstrate in there that just because something is said by the Government does not necessarily mean that people believe it.

Senator FORD. You would not buy a used car from the Government?

What is your opinion of the Chilton study used in the FTC report?

Dr. BLACKWELL. The Chilton study has, like all surveys, weaknesses and strengths. I believe the study does reveal some interesting facts. The quote that I mentioned indicates that there really is no difference in behavior based upon, statistical significance in behavior, based upon knowledge.

The problem is not so much with the Chilton study as the way the FTC interpreted it, which is a problem with a lot of studies, of course.

The CHAIRMAN. Mr. Blackwell, as I understand—and I think it is your position too, Mr. Light—that the present Surgeon General's message has been reasonably effective and people are used to it and we should not change it. Do I phrase your position roughly correctly?

Mr. HORRIGAN. Yes.

Dr. LIGHT. Yes.

The CHAIRMAN. I would be curious, Mr. Sharp—you are in the advertising business—as to your comment on the theory of the value of the consistency of the message over and over and no change, no rotation.

Mr. SHARP. I think there has been a certain amount of confusion expressed here in associating the warning message with that of an advertising campaign. I think that by just using one ad as an illustration what this bill proposes is nothing more than the rotation of message units within this area devoted for the warning.

In my opinion that does not constitute any type of problem in interfering with the advertising of cigarettes. In effect, it is, as stated earlier, a basic compromise on the overall intent of those who support this legislation. I think that this is a good illustration of how a simple message has to fight with a much more massive unit encouraging people to take up smoking or to switch a brand.

The CHAIRMAN. Do you have any illustrations or any experience with how advertising of tobacco products has been targeted to specific groups?

Mr. SHARP. I think that any one of these ads that I have here could be held shown to attempt to attract young people. A case could be made for the identification of the model and the fashions that the model is dressed in. They are trying to emulate or to depict a certain type of lifestyle to which a particular brand is trying to draw identification. It is something that Mr. Horrigan, I think, alluded to earlier, as brand segmentation.

I believe that in most modern marketing situations when a new brand is introduced it is done so through extensive research. Mar-

keters try to develop or define where a deficiency might exist in a total product category. Then a product is developed to fill this void or to further penetrate this segment of the category. This would certainly be true of the cigarette category—especially among non-smokers or light smokers.

Therefore, it would be my conclusion, if I were about to launch a cigarette advertising campaign, I would use a similar approach as the cigarette advertising industry does. If cigarettes did not exist at all today and I were in charge of the responsibility for launching them as a product category tomorrow, I would use exactly the same approach that they have used up until now.

The CHAIRMAN. Let us have a very specific question. You have been in advertising a fair period of time. Do you think any of these ads are targeted toward youth?

Mr. SHARP. I think that they are indirectly targeted to youth. I think that youth today try to emulate the styles, the images that older people project. I can recall as a teenager always wanting to be like someone who was older than I.

I do not think that you can make a direct correlation and say that the advertising today specifically and directly is targeted toward teenagers, although there is evidence that the exposure of these ads in a magazine such as Cosmopolitan would be exposed to young teenaged females. So therefore I would stand very comfortable with the fact that this advertising, although not directly aimed at teenagers, is going to emulate a lifestyle that most teens would like to acquire and therefore indirectly would try to emulate the images that this advertising projects.

The CHAIRMAN. Professor Cohen, we obviously have a difference of opinion as to whether or not the consistency of the present warning is more effective than the proposed rotational scheme. Do you think the rotational scheme will be more effective?

Mr. COHEN. Oh, I cannot imagine there can be any doubt about that, frankly. It is also interesting to note that there has been testimony that under 3 percent of the people exposed to magazine ads report reading a warning. I would imagine that if I were an advertiser and I had sound research that demonstrated that only 3 percent of the people read what I produced, I had better change something and change it fast or I am not going to be there very long.

And yet, the advertising industry does not seem very concerned that only 3 percent of the people report reading it now. I mean, it is tired, it is worn out.

The CHAIRMAN. Let me ask both you and Mr. Sharp something. If this were any other product, a normal commercial product, and you had that kind of penetration, would you change the ads?

Mr. SHARP. Absolutely.

Mr. COHEN. I think I would like to inject another answer. I think absolutely, but I also think that there is a major point that we may be overlooking here. And that is that, as I understand this bill, it is designed to provide specific information, better information than was available when the original warning was decided upon.

I think pregnant women have a right to know about the harm that could be caused.

The CHAIRMAN. Your statement is very correct. At the time that this original warning came, there was some question as to whether

or not there was a relation between cancer and smoking, and maybe some kind of heart problem. We were not sure. Indeed, I understand that the tobacco industry challenges it.

But certainly those who draw a connection between smoking and health have much more specific data now than we had 10 or 15 years ago.

Mr. COHEN. I see it as a question of providing consumers with the information they need to make a free choice, and I find nothing more compatible with the free enterprise system than providing people with the information they can use to make a free choice. That tenet is at the heart of economic theory and I cannot really see a quarrel with that.

The CHAIRMAN. Do you have any suspicion that the reason that those who now support the warning system who did not used to support it are satisfied with it is because they assume it has no effect?

Mr. COHEN. Of course that is my suspicion. I think they like the data that 3 percent do not report reading it in some way, and I think that what we have is a very mushy warning now. It is a warning that people understand, but cannot relate to anything personally.

If we had more concrete, specific warnings, this would provide information that people could relate to on a personal level. They could draw it into memory. They could draw from memory instances of cases where they knew people who suffered from heart attacks or emphysema and recalled that these people smoked 3 packs a day. That would be far more powerful than the kind of mushy, abstract warning we have now.

The CHAIRMAN. Wendell?

Senator FORD. You know, it is very strange here. When 90 percent of the people understand it they do not really have to read it. They immediately recognize it. And I suspect that we would get a hell of a response if we would ask the public to repeat the warning label from memory, and if they could do that I would suspect you would have a high percentage that could repeat it from memory and know it without ever looking at it. So I think that the next time we have a survey you ought to put that in it.

Professor Cohen, in your statement you indicate that special attention should be given to those just considering whether or not to start smoking. A program—you suggest a program aimed at youth, which the tobacco industry has said they have begun and already indicate in their advertisement.

How would you design this program?

Mr. COHEN. Well, first of all, let me say that while I applaud the effort of the advertising industry to warn children against smoking, I cannot believe that their research led to this ad. I think it is frankly a disingenuous effort.

If you want to appeal to young adults not to smoke, you do not call them kids. And this ad has a headline which says "Kids." Now, young people do not smoke because they are kids; they smoke because they are trying not to be kids. And this ad, if anything, will boomerang. So I do not think this is a very laudatory advertising campaign.

As to what I would propose, what I would propose is——

Senator FORD. Let me make a point here. I think Mr. Horrigan ought to stop you, because he said after this and then the survey of that that they would go even further. And to flaw the original ad, I think, and to comment on that after the statement of Mr. Horrigan is not quite fair.

Mr. COHEN. I do not think what I said was intended to be unfair. It was to point out that it is fairly obvious that young people do not smoke because they are kids and it is going to turn them off. If you are trying to provide information to these people and say do not smoke, consider this carefully, and you put "Kids" in the headline, you are not going to——

Senator FORD. But that was basically, I think, said to someone who could read it and answer it and come back for information, and that would lend itself to the parent, which I have heard from all five of you here today that that is where the communication ought to start. And I think that the tobacco industry probably is on the right track with that direction.

Mr. Sharp, you stated that this advertisement would be no substantial cost to the industry, is that correct?

Mr. SHARP. That is correct, The administration or the accommodation of a rotation of messages.

Senator FORD. What would it cost the Government?

Mr. SHARP. I cannot estimate that because I have no idea what form of programs for administrating or regulating or overseeing the program——

Senator FORD. Have you read the bill that is before us today?

Mr. SHARP. Yes; I have.

Senator FORD. Are you aware of all the various items that are required of the Federal Government as a result of the passage of this legislation, in addition to the cigarette labeling?

Mr. SHARP. Generally, yes, I am.

Senator FORD. What about the reports, the surveillance that 15 percent of all the cigarette packages would carry each one of the five? How are you going to be able to count all of those and be sure they are right? Who is going to—are you going to let it be peer review or industry self-discipline?

Mr. SHARP. I think it could be a combination of many factors, Senator. I think that the industry has demonstrated an effort on their part to be self-regulatory and I think that if the provisions of this bill were passed and since the industry has shown compliance with previous measures, it would probably comply in this matter, too.

We are not talking about a terribly cumbersome program to implement. I think that if a company such as RJR or Phillip Morris is a good corporate citizen they are going to administer this program on their own and Government regulation and Government oversight of it would be probably at a minimum.

But the point I would make is that, what difference does the cost make in the regulation if you are saving lives?

Senator FORD. Well, we hear a lot about the budget today.

Let me ask you, then, on page 4, section 7 of the smoking and health section, 1711, how much you think that is going to cost, when it automatically gives to the Secretary to undertake additional informational research activity which the Secretary determines

necessary and appropriate? Anything he wants to do, he can do. How much do you think that one little paragraph is going to cost?

Mr. SHARP. I have no idea.

Senator FORD. How about page 5, (a) costs, (b) costs. Section 2, additional costs. Section 3 would be additional costs.

Mr. SHARP. In my opinion, Senator, the costs would be relatively insignificant compared to the cost of lives, the medical——

Senator FORD. We are talking about advertisement now and the cost of that advertisement and the ability to get that to the general public. We have had the hearing on health.

Mr. SHARP. OK. I think that it would be fair for me to say that if the costs of producing this ad, this one single ad, were somewhere in the neighborhood of around $10,000, it would probably cost no more than $10 to change that message so that the next time that ad appeared it would appear with a different warning message. Does that answer your question?

Senator FORD. Well, $10. Those who are for it give a low figure and those who are against it give a high figure. I will divide it in two and come out in between, because your figures do not even come close to the FTC and I think they are low.

Mr. SHARP. I think perhaps they suggested that the change be implemented immediately, and I think the proponents of this bill——

Senator FORD. No; the change is not immediately. It is 15 months, if you read the bill.

Mr. SHARP. I read the bill and I cannot understand how a program such as this, where all we are changing in the advertising is just a block of copy and the cigarette labeling packages, how that would cost $40 million. I fail to see that altogether.

The CHAIRMAN. Dr. Light, the Federal Trade Commission estimated $1.2 million additional cost for the rotation in advertising of the labels. This is not on the cigarette package, but the advertising. Does that strike you as a reasonable figure?

Dr. LIGHT. Well, there will be someone testifying after me on this question. I do not know the exact cost, but as a matter of judgment that would seem unreasonably low.

The CHAIRMAN. Well, I will wait until the person comes after you.

Dr. Blackwell, let me ask you this. I am not quite sure I follow your logic. You stated, and I am quoting here, "Under the proposed new warning, the logical conclusion would be that the Surgeon General has no longer determined that smoking is generally unhealthy." Do I take it you reached that conclusion in the following manner. One of the warnings that appears says, "Warning: The Surgeon General has determined that cigarette smoking causes emphysema, lung cancer, and other cancers." You believe that someone may come to the conclusion that smoking is not generally unhealthy, or that the Surgeon General says it is not generally unhealthy, it just causes these kinds of diseases.

Dr. BLACKWELL. Referring to a specific ad that only mentions that, if the general ad had been replaced and someone had learned that and it was replaced with a specific ad that only mentioned emphysema or only mentioned pregnancy problems, then a person

might conclude that the general warning had been narrowed to only very specific things in reading that particular ad; yes.

The CHAIRMAN. And you think even when these warnings were rotated and some related to pregnancies and miscarriages and others related to emphysema—and you know the five we are talking about—that people would think there are 22 miscellaneous diseases and problems that cigarette smoking relates to and it does not relate to any others; whereas now they would come to the conclusion that smoking is generally unhealthy?

Dr. BLACKWELL. Well, I would regard the present system now as primarily a basis to be able to talk about this topic with parents and children, with heart associations and other groups, and have an unequivocal statement, but with the proposed change we would be forcing people to look at very specific statements which cloud the issue and cause confusion.

The CHAIRMAN. What do you mean, forcing them to look at them?

Dr. BLACKWELL. Well, one of the studies indicated that—it was the Burke study that the FTC cites—it indicated that when people look at a number of different rotated statements, they tended to be confused about what the claim was really all about. In fact I will read the quote, and this is from the Burke Focus Group study that the FTC cited:

> The messages related to birth control pills and heart attacks tended to confuse the participants, who did not thoroughly understand the synergistic effects which formed the basis of the message. These two statements relating to oral contraceptives also had the least personal relevance and were rather easily dismissed as being intended for someone else.

Now, if a person reads only one or two or some of them, rather than a total, then he could conclude that we are narrowing it down. The interesting thing is that the statistic has been said that only 3 percent of the people read the labels currently, which is really an indication of the success of the present report. It is sort of like going to buy coffee. You do not take Maxwell House or Folger's and say, well, before I buy this I want to read the label first.

If 90 percent know the information, you do not need to read the label. They have learned the present message today. It is successful.

The CHAIRMAN. Wendell? I have no further questions.

Senator FORD. Well, I have a few more and I will try—are you through? I will just go right through, I might create some interest here.

Mr. Sharp, in your statement you indicated that when advertising depicts a product as an integral part of a highly desirable lifestyle and personal image, young people are particularly drawn to the ad because they seek to emulate the most modern trends and project an image similar to those images projected in many cigarette ads.

Other than billboards, I do not believe that many young people have much access to magazines that cigarette advertisers use. Do you have any numbers, Mr. Sharp, to substantiate your statement of how many youth regularly read "Time," "Newsweek," "U.S. News & World Report," and newspapers?

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Mr. SHARP. Not at my immediate disposal, Senator. But I think that, given an ample opportunity, I or any member of the staff could supply you with sufficient evidence that there is teen readership in every publication that is considered mass audience.

Senator FORD. I want that for the record. Could you get it for us, say in the next 7 to 10 days?

Mr. SHARP. I certainly could.

Senator FORD. All right. We would like to have that. I think when you get to it and if your figures are accurate, it will be surprisingly low.

Let me ask you this. We are talking about the billion dollars and you would like to have the account. Apparently you do not have any of them.

Mr. SHARP. I am not in the advertising agency business.

Senator FORD. Well, you do all these other good things.

Inflation, does it not have something to do with the increased cost of expenditures?

Mr. SHARP. That is true.

Senator FORD. What is the percentage increase in advertising rates since 1975?

Mr. SHARP. I do not have that figure. I will make you a guess. I would say that since 1975 all the media combined has escalated due to inflation at a rate of somewhere around 10 to 15 percent per year.

Senator FORD. You say 10 to 15 percent per year. So since 1975, you stated in your statement that between 1975 and 1979 cigarette advertisers doubled the amount of money spent on advertisements. So you take 1975 and 15 percent and 1976 15 percent and 1977 15 percent and 1978 15 percent and 1979 15 percent, and they are almost spending less today in real dollars than they did in 1975; would that not basically be correct?

Mr. SHARP. I do not think I would agree with that example, no, sir.

Senator FORD. But you said 10 to 15 percent every year, and you said that, in your statement, that they have doubled the amount of money spent on advertisements. Yet you say it is 10 to 15 percent each year. So you have 5 years times 15. That is 75 net.

Mr. SHARP. So they have increased it 25 percent over a base of 1975.

Senator FORD. No, no. You take 75—and I hope you do not keep your own books, because what you do is you have 75 plus 15 percent, and whatever that figure is you add another 15 percent on that. You have to factor that in. So that is more than 30 percent net. It is 15 percent of an increase of 15 percent.

Mr. SHARP. If the point you are trying to make is that the rate of expenditures of advertising this year compared to 1975 has not increased significantly, I would say that, yes, you are right, that inflation has created a tremendous bump in the expenditures of advertising.

Senator FORD. So you would agree with Mr. Horrigan, then, that basically there is no more expenditure per brand or basic increase other than inflation?

Mr. SHARP. I would not agree with such an absolute statement without——

Senator FORD. Well, but you are getting pretty close to agreeing with it.

Mr. SHARP. No, I would not say that. Without examining the data, I could not say—I could not agree absolutely with Mr. Horrigan's statement that on a per brand basis advertising expenditures have remained relatively the same or less. In fact, I would even go so far as to assume that with the introduction——

Senator FORD. Be careful when you assume something.

Mr. SHARP. I know the old saying.

Senator FORD. My daddy taught me that at an early age.

Mr. SHARP. That is right.

I would assume that advertising expenditures for the launch of a new low-tar product have increased at an accelerating rate, because they do not have the mass audience media that they had available to them back in the days of radio and television. Advertisers now must use other means other than just magazines and outdoor bulletins to gain the exposure.

I think it is a rather critical point to realize that one of the upcoming boxing championships is going to have the Camels logo on the canvas of the ring. I fail to see the association of the benefit of identifying a major sport with a cigarette advertiser's logo.

Senator FORD. What about playing tennis?

Mr. SHARP. I think that is the same association. I think all the efforts on the part of cigarette advertisers have been to increase their exposure through brand identification. That is one of the major factors in getting people to consume a product or to establish brand loyalty, and that is to keep the image of that product in front of the public.

Senator FORD. Do you want to respond to that?

Mr. HORRIGAN. Yes, Senator. I think that we should deal with good information and not misinformation here this morning. The fact is that one of the major companies in this industry happens to be ours, and we have signed a tie-in with a major championship fight. It is not unlike billboards or outdoor advertisements at Yankee Stadium or Giant Stadium or wherever. Because there were some concerns that people had, again, talking about self-regulation and being responsible, there will be no Camel logo on the canvas or on the ring post. So I think we should deal with accurate information here this morning.

Senator FORD. I appreciate our getting that straight, Mr. Horrigan. Let me ask Mr. Sharp another question. How would you devise a media campaign directed at young people on the risks of smoking?

Mr. SHARP. First of all, I would select a creative strategy that would have an impact upon this segment of our population. I would probably start out with trying to study the effect of peer pressure on smoking among teenagers. I am sure it is prevalent. I would try to establish some form of appeal that young people would relate to and identify with, and use that as the basis for my creative strategy. Second, I would use media which young people are most predominantly exposed to. That might include radio. It would also include a mixture of magazines and outdoor advertising as well.

Senator FORD. Well, then, cigarette labeling is not one of your ways at getting at the young people who smoke?

Mr. SHARP. I have not stated that I think that cigarette labeling is the only means of getting to these people.

Senator FORD. Well, I asked you to devise a strategy, and you did not even mention increased labeling on a package of cigarettes. How much would it cost to redesign the cover or a pack of cigarettes, the packaging of a cigarette?

Mr. SHARP. I think it would be a relatively low cost. I have an example here of a common way in which printing of cigarette packages occurs. It is a process known as gang-printing. In this case, there are five different rows of package designs, and in each case a different label could be incorporated in the printing process, so at the time packaging is printed for cigarette manufacturers, all five messages are going to be printed.

Senator FORD. But this is your design. The ultimate design is going to have to be coming from somebody else, and they may have to redesign the whole packaging structure of the industry. Let me ask you this question, and you can answer yes or no. If you have to redesign a package, what does that mean then to the expense of an industry?

Mr. SHARP. I do not believe that question has a yes or no answer, because as I understand——

Senator FORD. If they had to redesign a package, the packaging, the design, and so forth, would that cost the industry more money?

Mr. SHARP. Yes, it would.

Senator FORD. That is good enough. That is all I wanted to know.

Mr. SHARP. May I elaborate?

Senator FORD. Let me just say this. You are not going to elaborate on it, because you do not know what the Secretary is going to do. You do not know what they are going to impose upon the industry. There is no way if this legislation is passed to say emphatically what is going to happen. So therefore, the only thing you could do as a smart and prudent businessman is not think the low side. You can make all kinds of recommendations, but that does not mean that is what the industry has to be prepared for.

Mr. SHARP. I understand that. The point I wanted to elaborate on, Senator, is that I believe that as it stands now, the proponents of this bill do not believe the packaging would have to be redesigned. I think they are talking about simply changing the type of the message in the current warning box. The redesigning of the package does not seem at this point to me to be a necessity.

Senator FORD. Thank you. We got it in color.

Dr. Light, one quick question, and then I am going to quit. There have been many assertions that an advertising agency mapped out an ad campaign for Viceroy on how to attract teenagers to smoking. Was the campaign ever used by the company, and can you explain the events surrounding these allegations?

Dr. LIGHT. Well, there have been some allegations. Unfortunately, the FTC staff quoted several things out of context, and made what I believe are some misleading and irresponsible accusations. They quoted some research as Bates research and Brown & Williamson research, and in fact the research was not conducted by either the agency or Brown & Williamson. The analysis and the report were contracted by an outside research company. Their conclusions or observations were derived by the researcher of that

company, a company called Mark, although I do not know the name of the researcher. It is true in my opinion that the conclusions were incorrect. In my opinion, the observations were misguided. This happens, especially in a situation where the people—maybe it was a young, inexperienced researcher, I have no idea—prepared a report and came to erroneous conclusions.

I think it is wrong, misleading, and irresponsible to characterize this report as reflecting either the policies of the advertising agency or the advertiser. As we know, the same thing can happen in any large company, especially when dealing with a subcontractor. In a newspaper, for example, a reporter may prepare some material which is inappropriate. The key in any case is whether there is a system which exists for catching any mistakes, for correcting any errors, or for insuring against inappropriate action being taken, and such a system does exist in the advertising industry.

In this case, the system worked. No ad was ever produced based on this analysis. No ad was ever produced based on that recommendation. No ad was ever run based on that research. It seems incorrect to me to condemn a company or an industry because of the apparently misguided behavior of some individual who, in this case, was not even employed by the industry. For whatever reason, it seems terrible and unfair to characterize the industry as directing advertising based on a strategy when no advertising was in fact based on that strategy. If anything, I do not think criticism is due. I believe praise is due, even in this case because the fact is, the system worked.

The CHAIRMAN. We have no further questions. Thank you very much. Mr. Sharp, would you remain? I may want to ask some more questions in relation to the next panel.

Mr. HORRIGAN. Mr. Chairman, if I might, it was our understanding that Mr. Sharp might appear on that panel. His comments that we have heard go far beyond the mechanical nuances, and he launches again into marketing strategies and philosophies. That being the case, since it was Mr. Perlmutter's intent to liven up this session this morning, I would suggest or request that Dr. Light appear on that panel as well if you are going to get into those areas.

The CHAIRMAN. I have no objection.

Senator FORD. Mr. Chairman, when you dismiss it, I have some written questions for Mr. Sharp, if you would allow that at a later date. So, Mr. Sharp, you can expect some written questions from me based on your testimony today.

The CHAIRMAN. We will take Mr. Eric Rubin and Mr. David Minton.

Mr. Rubin, go right ahead.

STATEMENTS OF ERIC RUBIN, OUTDOOR ADVERTISING ASSOCIATION OF AMERICA; AND DAVID MINTON, COUNSEL, MAGAZINE PUBLISHERS ASSOCATION

Mr. RUBIN. Good evening, Mr. Chairman.

I am counsel to the Outdoor Advertising Association of America, the OAAA. The OAAA is the trade association of the standardized outdoor advertising industry. In the OAAA's view, the question of

whether the cigarette warning text should be revised has been largely eclipsed by the public's virtually universal understanding of the potential hazards of smoking.

The FTC staff report itself points out that 90 percent of the American public now understands cigarette smoking is potentially dangerous to health. The OAAA's opposition to S. 1929 extends well beyond these concerns and centers on the fact that this legislation would require the FTC to exert comprehensive control over the content, graphic design, and media placement of protected commercial speech. The bill dictates the precise wording of five different warning statements that are to be incorporated in all cigarette advertising packaging pursuant to a loosely defined media rotational scheme, but the measure would leave it entirely to the FTC's discretion to determine how this will be accomplished without specifying any limitations or enforcement criteria other than the general exhortation that the warning must be legible and conspicuous.

The Commission has given virtually unbridled authority to determine the format of the warnings, the amount of space within advertising and packaging copy that must be allocated for them, and when and by whom each warning should be published. S. 1929 has been cloaked in the rhetoric that its purpose is public information and education. It is advanced today as a relatively modest measure which simply substitutes new warning texts for the current Surgeon General's warning. In reality, a good deal more is involved, because the bill is predicated on a scheme which requires the insertion of Government-mandated content into protected speech regarding a lawful product.

This creates circumstances in which the FTC will inevitably exert comprehensive control not just over the warnings themselves but over the general content of future advertising and packaging and the selection of the media through which it will all be disseminated. There is nothing in this legislation that would prevent the FTC from implementing a warning format that would make a shambles of cigarette advertising or packaging or which would usurp so much space that the warning itself becomes a dominant theme in the advertisement.

The potential for abuse becomes readily apparent by briefly considering what would occur if the FTC implemented this law by following its most prominent recommendations of the staff report on cigarette advertising released last summer. Until now, the Surgeon General's warning has been displayed in the print media in a contrasting rectangular box that sets off the warning from the principal advertising copy. For some time there was considerable controversy whether this format was adequate for outdoor advertising. This was resolved last June when the FTC filed consent judgments in the Federal district court in New York City replacing the rectangle with an entirely new format for billboards which incorporates a larger conspicuous warning within a segregated banner extending across the bottom of each billboard. Nevertheless, the staff concluded that a new warning format should be implemented for all media, and recommended that the Commission adopt a motif combining a circle and an arrow.

Let me show you what the result would be if that new format were adopted to display the warnings proposed by this legislation

on a standard billboard poster utilizing the same enlarged print size and type style accepted by the Commission in the consent judgments.

Now, this is to scale. It is a reduction of a poster panel which is really 12 by 24 in actual practice, and the warning, as you can see in the circle and that FTC motif, is the exact print size as the warning across the bottom, which is the current motif in which the warning is displayed.

The point is that without further limiting language in this legislation, the FTC has very broad authority under this bill which extends well beyond the narrow implementation of the warning itself. The comprehensive character of the FTC's authority is further reflected in the rotation provisions. The legislation would require that each of the five warnings be disseminated, and I quote, "an equal number of times in packaging and advertisements for each cigarette brand over a 15-month period."

In addition, each of the five label statements must be disseminated on at least 15 percent of all packaging and advertising at any given moment. This will inject the Commission directly into the complex area of media scheduling and strategy, which is clearly beyond the expertise and, I might add, managerial capability of any Government agency.

The legislation requires the FTC to establish an intricate rotational system and to seek criminal penalties for violations by an advertiser. As a practical matter, this would require cigarette advertisers to secure prepublication approvals of their media plans by the Commission. Moreover, under section 4(a)(1)(C), the agency would become the arbiter of whether a particular media schedule assured that each warning appeared in an equal number of advertisements for a given brand. At the most elemental level, the Commission would be left to determine if the requisite parity is achieved when a company runs the first rotational warning as part of a regional magazine campaign, and places the second warning on billboards in the 10 largest cities within the same region.

The CHAIRMAN. Can you draw to a conclusion, please?

Mr. RUBIN. Obviously, this is going to get extraordinarily more complex. Our principal point is that the OAAA regards this as not a technical issue, but a major substantive issue, and we regard it as ironic indeed that this committee, which is currently considering parallel legislation to cut back on the FTC's authority for similar adventures in the past, would give them broad authority like this now. Thank you.

The CHAIRMAN. Thank you.

Mr. Minton.

Mr. MINTON. Thank you, Mr. Chairman. My name is David Minton. I am the Washington counsel for the Magazine Publishers Association. The association was asked to testify on this legislation not because of its impact on cigarettes but because of the threat which we see as being an impact upon advertising and magazine business in the United States. Advertising is the principal source of financial support for the magazine industry, and it is our view that legitimate advertising for legitimate products offered for sale in the United States should not be unduly restricted.

The manufacture, distribution, and sale of cigarettes and the consumption of cigarettes is not subject to Federal or State regulation or prohibition, and so, even though some of our member magazines, one being the Reader's Digest, which is the most widely circulated monthly magazine in the United States, do not accept cigarette advertising. Our members are very strongly of the opinion that unnecessary Federal regulation of advertising in magazines should not be enacted.

Fortunately, the Supreme Court of the United States has taken a somewhat similar view. In *Central Hudson Gas* v. *New York* in 1980, which is the general judicial guideline today, the Supreme Court ruled that commercial speech, meaning advertising, purely commercial speech cannot be unduly regulated. Justice Blackmun said, and I would like to quote two brief lines from it, "The regulation may not be sustained if it provides only ineffective or remote support for the Government's purpose. If the Government's interest could be served as well by a more limited restriction on commercial speech, the excessive restriction cannot survive."

The first witness this morning, Dr. Harrison from the American Heart Association, said in response to Senator Ford's inquiry that he did not think that the cigarette warning labels currently in effect or those proposed to be in effect would be particularly effective. Yet, you are considering enacting legislation which imposes further restrictions upon the freedom to advertise in the United States, and it is our position that, although your bill may not be unconstitutional, it certainly raises legitimate questions in that area. We believe that your bill should not have to fail the test of constitutionality in order to be an inadvisable piece of legislation.

Generally speaking, the American public, for reasons which are obscure, do not pay all that much attention to warning labels. I cite in my testimony that Rolaids has a 65-word warning label, but Roger Staubach never mentions the 65-word warning label on the side of the product that "everyone knows how to spell relief." People do not pay attention. People do not pay attention to the instructions of a stewardess about what to do if you need oxygen in an airplane. People pay very little attention to any kind of warning labels except when there appears to be a direct and imminent threat to life, such as the Three Mile Island incident, or the Love Canal incident, or strontium-90 in milk 25 years ago. That kind of ominous threat to the existence of life on Earth appears to attract people's attention; but that you do not take someone else's medicine is probably the most frequently violated law in the United States.

We feel that if there are, and we believe there are, more effective remedies to provide information to the public as to the consequences of using cigarettes, then the Congress should pursue those other remedies. We know that you have in the past. You have enacted legislation to establish a speed limit, and during the period that that speed limit was enforced, the number of people who were killed on American highways declined dramatically. The response of the public not liking to drive 55 miles an hour, resulted in this administration and this Congress failing to approve appropriations for the enforcement of the speed limit.

The same thing was true of the automatic seatbelts. When you are dealing with people's personal habits, and particularly what they eat and what they drink and what they do, they simply do not respond to warnings, and if greater education is needed in order to apprise them, we recommend that you pursue those remedies rather than restricting advertising. Thank you.

[The statement follows:]

STATEMENT OF DAVID MINTON, WASHINGTON COUNSEL, MAGAZINE PUBISHERS ASSOCIATION

The Magazine Publishers Association is an organization representing 188 United States publishing firms which publish nearly 800 consumer magazines. MPA represents weekly news and feature magazines, journals of literature and opinion, special interest publications in practically every aspect of human behavior, and a variety of other subjects. The American people subscribe to 250 million copies of each issue of MPA magazines.

As an organization, MPA has testified before numerous congressional committees and administrative agencies on subjects of general and specific concern to the publishing industry, and we hope that our contribution to the legislative and administrative process has been constructive. Today, we appear to present our views on the issues in S. 1929 which relate directly to the publishing industry.

Section 4 of S. 1929 requires the purchasers of cigarette advertising to include specific statements of health warnings in each publication of the advertising. This requirement is not new—the Federal labeling requirement for cigarette packages became effective January 1, 1966, and the addition of the warning label to advertising began in 1972. Since 1972, there has been no legislative consideration of expanding the requirements of the present magazine advertising label. The rotating warnings proposed in this legislation is a far broader requirement than the current statement, however, and comes after the Supreme Court has more clearly construed the constitutional limits of permissible government regulation of commercial speech under the First Amendment. It also comes after substantial experience and research in measuring the effectiveness of warning labels, including those applicable to cigarettes. This experience plays a part in determining whether government control of commercial speech is constitutionally permissible. So, in a sense, this is a fresh atmosphere for considering the issue, and we hope that the committee will weigh carefully the principles involved in light of these developments.

The Magazine Publishers Association opposes section 4 for two reasons: we think it exceeds the permissible limit of government regulation of advertising as that limit has been established by the Supreme Court of the United States, and we think that even if it were not unconstitutional, it will not achieve the goal you appear to be pursuing—persuading people to stop smoking. If there is room to differ as to the correctness of our objection to the bill on constitutional grounds, the evidence indicating that labeling is not likely to help achieve your objectives should lead you to refrain from imposing the restraint upon free speech in the first place.

We are sure that the members of this committee hold dear the constitutional rights of all citizens, and would not risk an infringement upon those rights without clear and compelling evidence not only as to the rightness of the cause, but also the wisdom of the precedent of the infringement, particularly in light of current pressures to enact legislation or approve constitutional amendments designed to regulate the behavior of citizens or overcome a Supreme Court decision.

"Commercial speech" is a term used to differentiate between speech which relates to economic interests and speech which does not. The Supreme Court in *Valentine* vs. *Chrestensen*, decided in 1942, held that the Constitution did not extend to negate a New York statute prohibiting the distribution of handbills "or other advertising matter" in any "public place." The Court said, "we are equally clear that the Constitution imposes no such [First Amendment] restraint as respects purely commercial advertising." [1] A similar conclusion was reached in *Breard* vs. *Alexandria*, involving door-to-door salesmen peddling without a permit. But since *Breard*, in 1951, the Court has not denied protection to commercial speech on that basis alone, and, in the words of Mr. Justice Douglas, the *Chrestensen* rule "has not survived reflection." [2]

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[1] *Valentine* vs. *Chrestensen*, 316 U.S. 52 (1942).

[2] *Breard* vs. *Alexandria*, 341 U.S. 622 (1951); Justice Douglas's comment is found in *Cammarano* vs. *United States*, 358 U.S. 524, at 534 (1959).

In 1975, the Court moved sharply in the opposite direction. In *Bigelow* vs. *Virginia*, a Virginia statute making the newspaper advertisement of abortion referral services a crime was struck down as an unconstitutional infringement upon the First Amendment. If there were lingering doubts as to "purely" commercial speech's status under the First Amendment because the *Bigelow* case involved abortion services—a public issue transcending mere commercial speech—the Court's decision in *Virginia Pharmacy* in 1976 laid all doubts to rest. Justice Blackmun, speaking for the Court, defined the issue to be whether purely commercial speech was outside the protection of the First Amendment. "Our answer," Justice Blackmun said, "is that it is not." [3]

The Court has nevertheless recognized legitimate avenues for regulation of commercial speech, just as there are legitimate grounds for the regulation of political speech. The Securities and Exchange Act, the Sherman Antitrust Act, and a number of other laws regulate commercial speech, but the interests of society in the positive benefits of those legislative aims have been considering an "overriding" public interest. Virginia Pharmacy itself prescribed that purely commercial speech could be regulated to be "clean" as well as "free." A clear exception to the protection of the Constitution is deceptive or misleading advertising.

In 1980, the Supreme Court defined in detail the constitutional protection of commercial speech in Central Hudson Gas. That case involved a New York State regulation which banned commercial advertising by a public utility which promoted the purchase of natural gas. Justice Powell laid out the rule to be followed to test constitutionally permissible regulation of advertising. He said,

"If the communication is neither misleading nor related to unlawful activity, the government's power is more circumscribed. The state must assert a substantial interest to be achieved by restriction on commercial speech. Moreover, the regulatory technique must be in proportion to that interest. The limitation on expression must be designed carefully to achieve the state's goal. Compliance with this requirement may be measured by two criteria. First, the restriction must directly advance the state interest involved; the regulation may not be sustained if it provides only ineffective or remote support for the government's purpose. Second, if the governmental interest could be served as well by a more limited restriction on commercial speech, the excessive restriction cannot survive.[4]

Mr. Chairman, we believe that the restrictions proposed in section 43 of S.1929 do not meet the requirements prescribed in Hudson Gas. They do not, because the effectiveness of advertising and label warnings do not have a favorable impact upon public behavior, most particularly where personal habits are involved. Most likely, the effectiveness would be unmeasurable. Finally, the goal which you seek to achieve may be more effectively achieved by means not involving further restrictions upon the Freedom of Speech. We hope that this committee's commitment to that liberty outweighs its interest in pursuing the unexplored potential of further restrictions upon commercial speech.

In determining whether the proposed restrictive violates the rule so clearly enunciated in Hudson Gas, we must first determine whether cigarette advertising is free of misleading content. To mislead, as Webster defines the word, is "to lead in a wrong direction or into a mistaken action; to lead astray. See deceive." "Deceive," Webster says, "is to cause to believe the false."

The Federal Trade Commission staff in its recent report contended that cigarette advertising is "deceptive" because it fails to provide sufficiently detailed information as to the harmful effects of smoking. That is called deception by omission. The Commission staff went to great lengths to attempt to prove this because unless they could prove deception, the FTC cannot act under current law. The staff's tactic was to concede that the public is somehow vaguely aware that smoking is "harmful" or "hazardous," but is not aware of the extent of possible harm. Various surveys in which people failed to identify correctly statistical information about smoking allegedly proved the point. So, the staff concluded, cigarette advertising deceives.

The staff's argument has several weaknesses. First of all, all but the most zealous adherents of the staff's cause would concede that the public is aware of the widespread publicity about the potential harm which can result from smoking, and is made more aware every day by Government reports, newspaper articles, magazine

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[3] *Figelow* vs. *Virginia*, 421 U.S. 809 (1975); *Virginia State Board of Pharmacy* vs. *Virginia Citizens Consumer Council*, 425 U.S. 748, 762 (1976). Subsequent decisions upholding the *Virginia Pharmacy* rule include, among others, *Bates* vs. *State Bar of Arizona*, 433 U.S. 350 (1979) and *Carey* vs. *Population Services International*, 431 U.S. 678 (1977).

[4] *Central Hudson Gas* vs. *New York Public Service Commission*, 100 S.Ct. 2343 (1980).

reports and by the television news programs. Time magazine devoted a lengthy article to the Surgeon General's Report when the report was issued in late February.

Secondly, every FTC or judicial case used by the Commission staff to support its claims of deception involved advertisements of a very different sort, all of which made affirmative claims. "Wonder Bread builds healthy bodies 12 ways." Household Finance makes "Instant Tax Refunds." That is a positive claim of something good that will happen if you buy Wonder Bread or take your tax return to Household. In fact, the claims were false; so the advertisements were ordered to be withdrawn.

Cigarette advertising does not make affirmative claims in regard to the effect of smoking upon health—which is the only reason either the FTC of the Congress is involved in this matter. The only mention of health in cigarette advertisement is the declarative statement "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health." Cigarette advertising pictures things—cowboys, pretty girls, and so on; but there is no claim. There are statements of pertinent fact: nicotine and tar content, determined under FTC standards. There are also claims that the brand advertised "tastes better," which is a matter of opinion. In recent years, tar and nicotine content have become a major advertising feature for most brands, and perhaps a reason for switching brands. That in itself demonstrates public awareness. Cigarette manufacturers no longer advertise the cigarettes which an older generation remembers. Not a dime is spent on plain old Camels, Luckies, or Chesterfields, although people who prefer those brands continue to buy them.

An advertisement which makes no affirmative claim to anything and which has a health warning in plain sight and plain words is not deceptive, and therefore is within the boundary of protection for commercial speech prescribed by the Supreme Court.

The second issue is whether the remedy proposed is likely to be effective, or whether the results will be ineffective or remote, thereby failing the Court's standard established in Hudson Gas.

The FTC staff concluded that the current cigarette label is ineffective, apparently because everybody hasn't quit smoking. Since it appears that the goal is the elimination of cigarette smoking in the United States, there may be many programs which would fail to meet the staff's test. Advertising labels may be one of them, but the claim that the public is not aware defies common sense and the Surgeon General's most recent report. The 1982 Report of the Surgeon General showed that today 53 million people smoke, about the same number as 20 years ago. That is a significant decline in the percentage of the population. There were about 180 million people in the United States in 1962, and there are about 230 million today. The percentage of adult smokers has dropped from 42 percent to 33 percent. Public attitudes have changed; medical advice has changed. Radio and television advertising is no longer available.

In testing whether S. 1929 complies with the standards set out in Hudson Gas, the relevant question is whether increased restrictions will have a direct impact upon achieving the legislative goal. We believe that the correct answer is either "no" or "nobody knows." In either case, we believe that the prudent advocate of constitutional freedom should refrain from restraint upon free speech rather than impose further questionable restrictions.

Recent studies of the effectiveness of warning advertisements and labeling show that the public tends to ignore them. In their November, 1980 Report to the President and the Congress, the Departments of the Treasury and Health and Human Services found that "the public generally is 'over warned' by the Government" and that the effectiveness of warning declines as the degree and frequency of warnings increase. Personal attitudes, experience, and habit play a highly significant role in determining whether a person pays attention to warnings, regardless of the consequences. The Report specifically found that "fear statements" are "generally not as effective . . . and may cause the audience to feel overly threatened and, as a result, screen out the message." [5] The "size" of the problem is related to the effectiveness of the warning, too. Many people switched from flurocarbon spray cans to carbon dioxide spray cans when alerted to aerosol's threat to the level of ozone in the stratosphere. Residents near Three Mile Island moved out quickly. The widespread fear of strontium 90 in cow's milk was a significant factor in public support for banning nuclear testing in the atmosphere. Those are big threats—of almost incomprehensible proportions—which appear to threaten life on earth. As Representative

[5] Report to the President and the Congress on Health Hazards Associated with Alcohol and Methods to Inform the General Public of these Hazards, U.S. Department of the Treasury and U.S. Department of Health and Human Services, November, 1980.

Udall remarked at the time of Three Mile Island, enemies you can't see, feel, o. hear, arouse a far deeper fear than others.

When it comes down to the personal level, the effectiveness of warning is significantly lower. The regulation of personal behavior, particularly personal habits, is extremely difficult. Many manufacturer warnings or instructions do not appear to work. Controlled experiments illustrate the problem. One recent experiment used in the HHS Study involved the use of hammers--the tool you drive nails with—which had been carefully labeled to warn of danger, or to instruct the user not to use the tool at all. One hundred high school and college students were asked to use the hammers to drive nails in pieces of wood. They all did, and following the experiment, all were asked what the labels said. Not one out of 100 had even noticed the labels.[6]

Everyone knows how to spell relief. Not everyone knows that the label of that famed over-the-counter antacid contains a 65-word warning as to the dangers involved in eating that tasty mint.

Observe passengers on any flight and see how many pay any attention whatever to the verbal safety instructions of flight attendants. In actual emergencies involving the necessity for using oxygen masks, passengers generally are at a loss, including business travelers most frequently exposed to the instruction. People simply ignore warnings.

It is an interesting problem. Automatic seat belts, required on all American cars in the mid-1970's, were so unpopular with the American people that Congress repealed the requirement, despite overwhelmingly evidence as to the effectiveness of the belts. Perhaps we all believe in our own indestructibility, our own immortality on earth. Whatever the reason, in personal matters—don't smoke, don't drive when you're drinking—admonitions as to the consequence, regardless of the evidence, don't have much effect. In the specific instance of the Government's 15 year campaign to persuade people to quit smoking, the 1980 Treasury/HHS Report concluded that "it is impossible at this time to isolate the impact of any specific communication technique on smoking behavior." [7]

To extend further restrictions upon the freedom to advertise a commodity the manufacture, sale, and consumption of which is legal in every State in the Union does not, in our judgment, do justice to the rule of law, particularly in the presence of evidence that this legislative remedy would not be effective. There are other areas of concern where legislation would prove effective. Should Congress require the Administration to enforce the 55 mile-per-hour speed limit? There is overwhelming evidence of the direct relationship of speed to traffic deaths. Fifty thousand people died in traffic accidents last year, most of them as the direct result of speed, yet Congress appropriated no funds in fiscal year 1982 to enforce the statutory speed limit. That very real problem involves no constitutional question. The Supreme Court has prescribed no rule. But in the case of further restrictions upon commercial speech, the Court has, and in our opinion S. 1929 transgresses that rule. We hope that you will reconsider.

The CHAIRMAN. Mr. Minton, your conclusion is, this bill may or may not be constitutional. You are not arguing that. You are saying it is certainly unwise?

Mr. MINTON. We think it is unwise, Mr. Chairman. It raises legitimate issues, as the court has considered in more than one case, and in the case I cited, the court has come down against the regulation.

The CHAIRMAN. Is that Hudson Gas?

Mr. MINTON. Yes.

The CHAIRMAN. My experience on issues that are borderline constitutional is that the argument can always be made to defeat legislation in Congress. This is a smokescreen that can be thrown up often. I do not mean that in a bad sense, but we are facing the same debate on tuition tax credits, is it constitutional, is it unconstitutional. We will not know if this legislation is constitutional until we pass it. We can argue until we are blue in the face about

[6] Journal of Products Liability, 1977, vol. 1, pp. 255-259.
[7] Treasury/HHS Report, p. 38.

its constitutionality. Therefore, your comments do not get to the merits of the legislation.

I think your point as to whether it would be challenged is probably right. I would be very surprised if when we pass it, if we pass it, it is not tested some place along the way.

Mr. MINTON. I would reverse the argument on you, if I may, Senator, and say that when Congress in 1962 enacted legislation which prohibited the importation of any Communist political propaganda to be sent through the U.S. mails, those who rejected that imposition upon the freedom of speech said, well, this bill is unconstitutional, and the author of the bill, who is no longer a Member of Congress, said, well, take that all to the courts, and let them test it there, which they did, and the law was declared unconstitutional.

The CHAIRMAN. Are you suggesting that Congress should become the arbiter of constitutionality?

Mr. MINTON. I tnink Congress is the arbiter, in most cases, of what is constitutional. Those who have the money and the time occasionally win an appeal and test a case in the Supreme Court.

The CHAIRMAN. You are missing the point. Are you seriously saying that we should pass or not pass legislation in Congress because somebody makes an argument that it is or is not constitutional, and we ought to say, well, 60 percent think it is unconstitutional and 40 percent do not, so do not pass it?

Mr. MINTON. I think you are elected to make judgment, and whatever your judgment is, is subject, in some cases to review.

The CHAIRMAN. In your case, your judgment on this, you are not all that sure that it is unconstitutional?

Mr. MINTON. No, I am not all that sure it is unconstitutional. I do think that it legitimately raises the issue that in this morning's testimony was so clear in all of the witnesses I have listened to. There may be better ways to do it than by risking an imposition upon the freedom of the advertiser, and in our case the magazine publisher, to publish ads to do business.

The CHAIRMAN. I have no other questions.

Wendell.

Senator FORD. Mr. Sharp, I do not want to have asked you to stay over without asking you any questions, but I am not going to ask you any.

Mr. Minton, I asked a question earlier about—you represent the magazine publishing industry.

Mr. MINTON. I represent the association which includes many magazines.

Senator FORD. What is the percentage of youth that receives Newsweek, Time, those sorts of books, and would be reading those? Do you have any sort of statistics that you could give us?

Mr. MINTON. Only generally, Senator. Young people tend to subscribe, to receive at their own home, at least—my personal experience as a parent would indicate magazines which tend to be aimed toward youth's interests, like Boys Life, Scouting. Sports Illustrated happens to be a magazine that is sometimes subscribed to by younger people, 12, 13, 14, 15 years old. My own 13-year-old children subscribe to Sports Illustrated. Some of those magazines carry advertising which appeals to that age group.

I am not in the advertising business, and I do not qualify to comment on it except as an observer, but if you advertise in any magazine, you are attempting to reach a particular audience, and Boys Life attempts to reach the interests of boys who would be interested in reading that kind of magazine. That is true generally across the board. It may miss what children are really thinking about, but at least that is the aim.

Senator FORD. So you are telling me basically that the young people in that age bracket do not subscribe to Newsweek, Time, periodicals such as that. They are more interested in Boys Life and that sort of thing?

Mr. MINTON. That is my observation, Senator. I have tried to get my children to read magazines prior to the age of 21, but it has been hard to do.

Senator FORD. Mr. Chairman, I have no further questions, but I do have an observation if I may. We have discussed several items here this morning, and we have never gotten into a major portion of the legislation entitled findings. We have never discussed the findings that are set out in this piece of legislation, S. 1929. I have no knowledge of the studies that the findings were based on. We have no testimony from FTC here this morning to substantiate their report. In reading the transmittal letter to me, they have come to no firm conclusion, so therefore I would hope that you would not conclude your hearings today based on the other items in the legislation other than the so-called labeling provision.

The CHAIRMAN. I am not sure we are going to have any more hearings, Wendell. There has already been a full day hearing in the Labor and Human Resources Committee on some aspects of this issue, and now, as indicated by the opening statement of Mr. Rubin, a very full day here this morning. I am not precluding them, but I am not saying that there necessarily will be.

Senator FORD. Well, how far did they get into the findings in the Labor and Human Resources hearing.

The CHAIRMAN. I sat through those hearings, but I honestly cannot remember. They were 2 or 3 months ago now.

Senator FORD. I am not a lawyer, as you know. I am not privileged with the background and the education that a lawyer would have, but findings as I understand it, and maybe, Mr. Minton, you could help me here, findings that we might prove here could be used in various areas of the law. Is that correct?

Mr. MINTON. I would prefer not to enter into a discussion between the chairman and the ranking member, but you have a counsel at the table that I might respectfully refer you to, Senator.

Senator FORD. I have been educated in labor law by Mr. Packwood on certain occasions, and I might get educated on the findings.

The CHAIRMAN. Are you asking, will a court give some credence to the findings of the Congress?

Senator FORD. Yes.

The CHAIRMAN. They will give some.

Senator FORD. All right. How would you apply, then, a finding? It could be in various areas of the law. It could be going to where you have in here occupational—the findings go into occupational hazards. Now, tell me what that means.

The CHAIRMAN. I am not quite sure what you are driving at.

Senator FORD. Well, you have findings here that say certain things, and that certain occupational hazards in conjunction with smoking increase essentially the risk of disease and death. What are the occupational hazards that we are finding here that we are saying unequivocally that Congress is approving?

The CHAIRMAN. You are asking about health issues, and that is not in the jurisdiction of this committee.

Senator FORD. Wait a minute, now. We are going to propose a finding here, and we are going to support that, and this committee is going to be required to make a judgment on a finding.

The CHAIRMAN. Wendell, this is a jointly referred bill, as you are aware, to the Labor and Human Resources Committee for the health aspects, and to this committee for the advertising aspects. I am going to be very careful about not overstepping our jurisdiction.

Senator FORD. Well, as a cosponsor of this legislation, can you tell this Senator what that finding means in your sponsorship and drafting of this legislation?

The CHAIRMAN. Wendell, I am not going to get into that with you here now.

The committee is adjourned.

[Whereupon, at 1:35 p.m., the committee was adjourned, subject to the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF HON. ORRIN HATCH, U.S. SENATOR FROM UTAH

It is a pleasue for me to join Sen. Packwood, and other colleagues, for this Commerce Committee hearing on S. 1929. We jointly introduced this bill, the Comprehensive Smoking Prevention Education Act last December, in an effort to enhance the public's knowledge about the health effects of cigarette smoking. Since then, I have been impressed with the strong support for this bill from health professional organizations and voluntary health agencies. In fact, over 30 such organizations, representing thousands of scientists, physicians, nurses, health educators and concerned citizens have strongly endorsed our effort. This legislation was also complemented by the report of the Surgeon General, Dr. C. Everett Koop, released in February of this year. This report, entitled The Health Consequences of Smoking, makes the strongest statement yet from the federal government regarding the harmful effects of cigarette smoking.

On March 16, I chaired a full Labor and Human Resources Committee hearing related to S. 1929. At that time we heard ample testimony from representatives of the Administration, from physician-scientists, and from the three largest voluntary health agencies (the American Heart Association, the American Cancer Society, and the American Lung Association), all of whom supported this legislative effort. The consensus was that the problems directly related to cigarette smoking are of such magnitude, in terms of human suffering, premature deaths, and cost, that a major, new public health effort is essential. In my opinion, this legislation is timely and necessary.

However, we also heard testimony from representatives of the Tobacco Institute, who are very much opposed to this bill. They said our citizens already know cigarette smoking is harmful. Furthermore, they questioned whether multiple warning labels, designed to specify health consequences of smoking, would have any impact on smoking behavior. I understand their point of view and recognize that sincere scientists might debate these issues for years on end. In fact, I'm not certain that the multiple warning labels we are proposing be placed on cigarette packages and advertisements will result in an immediate and dramatic decrease in the smoking habits of our citizens.

But I am sure we must do everything we can to inform them of the dangers. To simply advise them that cigarette smoking is dangerous to health is no longer enough. This legislation, S. 1929, is simply an effort to provide additional information. It provides a new opportunity to better inform and educate the public (particularly smokers, the individuals at risk), about the health consequences of smoking. This bill requires the tobacco industry to share in this education effort. And it encourages the voluntary agencies and private sector to help. I'm confident this legislation could be very effective and result in improved health for thousands of Americans. I'm very pleased that Sen. Packwood joined me in cosponsoring S. 1929, and look forward to hearing the testimony presented today.

STATEMENT OF DR. EDWARD N. BRANDT, JR., ASSISTANT SECRETARY FOR HEALTH, DEPARTMENT OF HEALTH AND HUMAN SERVICES

I am pleased to submit this statement of the Department of Health and Human Services on S. 1929, a bill which among other requirements would strengthen and make more specific the health warning which now appears on cigarette packages.

The Chairman of this Committee was present on March 16, 1982, when I appeared before the Committee on Labor and Human Resources. My statement here will closely parallel the testimony I presented at that time.

As I said then, our position on the need for cigarette health warnings has been long established. We believe that warning labels alerting the public to the hazards

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of smoking are entirely appropriate and that the present warning could be strengthened without overstating the extent of these hazards. However, we are taking no position on the specific approaches embodied in S. 1929, or in the somewhat similar provisions of H.R. 5653 which is now before the House.

Our Department can speak to the hazards of smoking and we shall do so in this statement. The hazards of cigarette smoking can be expressed more explicitly and more strongly than is now called for in the Federal Cigarette Labeling and Advertising Act. Thirteen years ago, when this Act was being considered for amendment by the Congress, Dr. William Stewart, then Surgeon General, unequivocally supported the medical and scientific justification of one of the warnings then being proposed. This was the warning that "Cigarette Smoking is Dangerous to Health and May Cause Death From Cancer and Other Diseases". Today, in light of all the new research which has accumulated since, much more can be said.

As I did in my previous testimony, let me summarize the Department's position on the hazards of smoking.

1. Cigarette smoking is clearly the single most important preventable cause of premature illness and death in the United States. Estimates of the number of deaths exceed 300,000 annually. One may compare this with the 105,000 deaths which occur each year as a result of all accidents.

2. Cigarette smoking is one of the three major independent risk factors for coronary heart disease and arteriosclerotic peripheral vascular disease; a major cause of cancer of lung, larynx, oral cavity and esophagus; and a major cause of chronic bronchitis and emphysema.

3. Cigarette smoking is a contributory factor in cancer of the urinary bladder, kidney, and pancreas. It is also associated with peptic ulcer disease.

4. Maternal cigarette smoking during pregnancy is associated with retarded fetal growth, an increased risk for spontaneous abortion and prenatal death, and slight impairment of growth and development during early childhood.

5. Cigarette smoking acts synergistically with oral contraceptives to enhance the probability of coronary and some cerebrovascular disease; with alcohol to increase the risk of cancer of the larynx, oral cavity, and esophagus; with asbestos and some other occupationally encountered substances to increase the likelihood of cancer of the lung; and with other risk factors to enhance cardiovascular risk.

6. Involuntary or passive inhalation of cigarette smoke can precipitate or exacerbate symptoms of existing disease states, such as asthma and cardiovascular and respiratory diseases, and it may prove to be carcinogenic for nonsmokers. Smoking is, further, the major identifiable cause of deaths and injuries from residential fires.

At the hearing of March 16, Dr. William Pollin, Director of the National Institute on Drug Abuse, presented testimony which requires consideration here. He termed cigarette smoking the most widespread example of drug dependence in this country. He said that scientifically, the fundamental public health and social issues with tobacco appear to be no different than with other substances of abuse, even though, legally and socially, tobacco is regarded differently than opium, cannabis, and coca leaves.

Dr. Pollin's testimony highlights the importance of continuing and strengthening our efforts to inform young people of the hazards of smoking and to encourage them not to take up the habit. It is in the mid- and later teens when most people begin smoking; from then on, the habit seemingly becomes harder to give up and the dangers of smoking increase.

The findings which I have reported to you here represent the position of the Department of Health and Human Services as to the hazards of smoking. In broad outline it is the position of other Governments and of every major medical and scientific association or society which has taken a position on the matter. We know of no credible evidence that seriously challenges the health warning which the Congress adopted in 1965, which it strengthened in 1969, and which is now considering strengthening further.

The cigarette manufacturers, rightly in my opinion, are proud of the more than 100 million dollar investment in research which they have made over the years. I know of nothing from the results of this research, that would challenge the overall assessment that cigarette smoking is hazardous. Let me read to you here, as an example, a summary statement issued in 1977 by the Committee for Research on Tobacco and Health. This was established by the American Medical Association-Education and Research Foundation in 1964 with funding of a reported 15 million dollars from the cigarette manufacturers.

The Committee's final report had this to say:

"The Committee is proud of and satisfied with the work that has been completed under the sponsorship of the American Medical Association's Project for Research

on Tobacco and Health. Important contributions have been made to basic medical science as well as to problems associated with tobacco usage. Valuable information has been obtained relating to distribution, metabolism, excretion and toxicity of nicotine absorbed by the human body via cigarette smoking. In the area of carcinogenesis, the Committee restricted the number of awards because cancer research was being generously financed by the National Institutes of Health and other agencies. Nevertheless, the demonstration of potent co-carcinogens in tobacco tar and the potential value of the measure of inducibility of aryl hydorcarbon hydroxylase as a determinant of susceptibility to lung cancer represent some of the more significant contributions in this area. Emphassis was placed on the impact of cigarette smoking on the physiology of the cardiovascular, respiratory and central autonomic nervous systems. The Committee believes that the bulk of research sponsored by this project supports the contention that cigarette smoking plays an important role in the development of chronic obstructive pulmonary diseases and constitutes a grave danger to individuals with preexisting diseases of the coronary arteries. On the central and autonomic nervous system important findings were made related to effects on behavior and on biochemical mediators elicited by nicotine. Gastrointestinal tract studies include new mechanisms by which nicotine may influence production of peptic ulcer. In studies in reproduction important insights were gained into the mechanisms of higher center control of releasing factors for pituitary hormone."

The research of the American Medical Association's committee summarized here was carried on prior to 1974 and represents only a small part of the total research carried on in the field of tobacco and health. Since then, additional research has accumulated. Our most recent report on the health consequences of smoking, which we make annually under provisions of the Public Health Cigarette Smoking Act, considered the relationships between cigarette smoking and cancer. I would conclude my formal testimony by describing the salient conclusions of this report.

Cancer was the first disease to be associated with cigarette smoking; reports linking smoking and lung cancer began appearing in the scientific literature as long as 50 years ago. In 1964, when the Surgeon General's Advisory Committee's report was issued, lung cancer in men, and chronic bronchitis in men and women, were the only two diseases which the Committee identified as being unequivocably caused by cigarette smoking.

Our 1982 report summarized the results of additional human experience since 1964 and enormous amounts of new research. In concluded that cigarette smoking is a major cause of cancers of the lung, larynx, oral cavity, and esophagus, and that it is a contributory factor in the development of cancers of the bladder, pancreas, and kidney. It pointed out that lung cancer accounts for one out of every four cancer deaths, and that 85 percent of these are due to smoking. Overall, it reported that approximately 30 percent of all cancer deaths are attributable to smoking.

Lung cancer is the major cause of cancer death among U.S. males. A cigarette smoker is 10 times more likely to die of this disease than a nonsmoker. This risk increases with the number of cigarettes smoked, exhibiting a direct dose-response relationship. Former smokers who quit for 15 years or longer have a lung cancer mortality rate only slightly above that of nonsmokers. Since 1950 the age-adjusted lung cancer death rate for women has increased over 250 percent. The most striking aspect of this trend is the accceleration in the rate of increase which has been observed. It has averaged 6.6 percent a year between 1968 and 1977, compared to slightly over 1 percent in the period 1950 to 1957; this increasing death rate will result in a death rate from cancer of the lung which will soon exceed breast cancer as the major cancer cause of death for women.

For the first time, as pointed out in our 1982 Surgeon General's report two preliminary epidemiologic studies have suggested an increased risk of lung cancer in nonsmoking wives of husbands who smoke, implicating sidestream smoke as a cancer risk factor. A third study shows a trend in this direction, but the results are not statistically significant. More evidence is needed on the carcinogenic risk to "passive smokers"; in the meantime, it must be considered a potential public health problem.

It would be possible to present further details on the cancer-cigarette relationship, borrowing from the 1982 report's comprehensive, critical review of the literature. It also would be possible to present similar evidence linking cigarette smoking to coronary heart disease; we expect this to be the topic of the 1983 Surgeon General's report on the health consequences of smoking. There could be additional testimony to the link between cigarette smoking and chronic lung disease and other diseases. However, I do not believe that additional information is necessary in order to justify

the need for further study of cigarette labelling and the need to alert the public to the hazards of smoking.

STATEMENT OF HAROLD MENDELSOHN, PH. D., UNIVERSITY OF DENVER

I am a social psychologist, and since 1962 have been Professor in the Department of Mass Communications at the University of Denver and Director of the University's Center for Mass Communications Research and Policy. From 1970 through 1978 I also was Chairman of the Department of Mass Communications. For over 35 years I have conducted research and published in the fields of social relations, attitudes and public opinion, communications, public health and the sociology of politics. I have authored or co-authored four books and numerous monographs, commissioned policy papers, and book reviews. Attached to this statement are my biography and a list of my publications.

I have examined in detail various documents that appear to provide the grounding for the "cigarette labeling" proposal contained in Section 4(a) of S. 1929. I have given particular critical analytic attention to the May 1981 Federal Trade Commission "Staff Report on the Cigarette Advertising Investigation." Additionally, I have reviewed, from the perspective of an expert on communications effects and public opinion survey research, the principal public opinion surveys and effects studies on which the key conclusions of the FTC Staff Report apparently are based. Finally, I have examined the statement made by Professors Roger D. Blackwell of Ohio State University and Yoram J. Wind of the University of Pennsylvania in connection with a rotational warning proposal in H.R. 5653 similar to the proposal in S. 1929. I am in total agreement with their evaluations, both generally as well as in the specific, and I will not repeat their insightful criticisms here.

I shall focus my observation on the scientific bases for rejecting the rotational warning proposal set forth in S. 1929 and the FTC Staff Report. Pub succinctly, that proposal is unnecessary because people already have the information sought to be provided, and misguided because it assumes that telling people more about the claimed health hazards of smoking will affect their smoking behavior. That assumption, which is inherent in both the FTC Staff Report and the present bill, is a prime example of wishful thinking without basis in fact.

The premise that the American public lacks sufficient information about smoking and health claims is utterly unsupported by the FTC Staff Report. That Report relies on a handful of disparate, isolated and unintegrated "studies" and public opinion polls that bear no intellectual, methodological or scientific relationship to each other. They do not relate to any recognizable theoretical body or tradition; they do not emerge from any scientific model; nor do they reflect any system of integrated hypotheses or hypotheses-testing that are grounded in scientific empiricism. Public policy should never be based on such singular, isolated, and unintegrated ad hoc "studies."

Moreover, the Report presents as an authoritative "data base" a handful of disparate public opinion polls (erroneously misinterpreted as tests of public information levels) plus a so-called focused interview study (again erroneously misinterpreted as a carefully controlled experiment) based on highly selected, biased "intercept" samples, rather than on representative area probability samples, the only scientifically acceptable sampling procedure for public opinion surveys. Hence the data base on which the FTC Staff based its recommendations is so seriously flawed that it cannot pass even the most minimal scientific muster. The Report's "findings" are without value as a grounding for public policy formation.

These fundamental defects aside, the FTC Staff's claim that significant sectors of the population are uninformed about the dangers of cigarette smoking has no basis in fact. Data from the very studies the FTC Staff selected to cite in their Report indicate just the contrary, as does the 1979 Surgeon General's Report:

"The public health campaign against cigarettes has produced notable changes in public awareness of the health consequences of cigarette smoking. It appears that the dramatic changes noted in adult smoking, especially among middle-aged males and certain professional groups *can be attributed largely to the effectiveness of information and educational campaigns since 1964.* Moreover, Warner has estimated that the effect of specific 'events,' such as the 1964 Surgeon General's Report, on cigarette consumption (mean number of cigarettes consumed per day) may appear small and transitory, but that the cumulative effect of persistent publicity appears to have reduced consumption by 20 to 30 percent below its predicted 1975 level." 1979 Report at 19–9 [Italic added.]

As a promotional effort, the various government and private anti-smoking campaigns in this country together and cumulatively have been remarkably successful in informing the largest possible number of Americans of the claimed dangers of smoking cigarettes.

Still, many Americans choose to smoke cigarettes. They do so not because they are unaware of the health hazards that are claimed to accompany such behavior. Smokers choose to smoke cigarettes despite their awareness of claims that risks to their health may be involved. They do for a myriad of reasons other than lack of "information."

The motivations to smoke or not are manifold and complex. "Information" about smoking and health claims alone must be viewed as just one possible relatively weak factor among such powerful casual factors as personality; socialization experience; learning experiences; beliefs and values; peer pressures; physiological, metabolic, and chemical balances and imbalances; religious background; lack of personal control and such. The scientific literature suggests that above all conformity to group norms is the most powerful motivational factor in influencing smoking behavior—not exposures to advertising or other communications. Thus, even if every man, woman and child in the country could score 100 percent on any test of information regarding the possible hazards that may flow from that behavior, it is unlikely that the current rates of cigarette smoking would be affected significantly.

Perhaps the major reason for this dichotomy between awareness and behavior is that the latter is far more a function of what we are willing to believe than of what we appear to know. And since beliefs serve emotional as well as intellectual functions, often simultaneously, they may not always be "logical" or "consistent." Thus, without discomfort of any sort we often hold, and hold on to, beliefs that appear to be simultaneously contradictory and irrational (e.g. the belief in science and the belief in astrology). Changing any single belief, other than our most central and cherished beliefs, does not necessarily produce appropriate changes in all others that may apply to a given phenonvenon. If they are to serve as guides to behavior, beliefs must above all first be personalized and internalized.

Beliefs concerning health usually have a probabilistic aspect to them. That is to say, a good portion of our beliefs about health is concerned with "likelihood":

1. The likelihood of coming down with a serious incapacitation or fatal condition or disease; and

2. The likelihood that certain actions to be taken by the believer will actually prevent, reduce, or eliminate that threat.

As a consequence, in order to persuade individuals to accept a particular health warning, the warning information must be processed through the psychological filters of message recipients' subjective beliefs that their susceptibility to severe health threats will indeed be substantially lowered or eliminated with compliance. Additionally, message recipients must be given a guarantee of a specific benefit to be experienced as a reward for compliance. The positive attributes of the promised benefit must fit in with message targets' beliefs about which is more gratifying—their current behaviors or the alternatives proposed from an anonymous outside source such as the government.

The "Russian roulette" labeling proposals of S. 1929 completely fail to take these personalizing problems of risk perception, motivation and gratification dynamics, and modification of health beliefs into account. Indeed, they are counterproductive in several significant respects:

1. By reflecting what appears to be yet another Federal Government manipulative public relations gimmick, the credibility of warning labeling overall may be seriously eroded.

2. Turning away from the one consistent current message to five separate warnings (not all equally relevant to everyone) simply serves to dilute the potential effect the current message may have through repetition—by a factor of five. Generally speaking, public attentiveness to and awareness of a particular claimed health danger or threat depends to a considerable degree on how frequently the warning claim is repeated.

3. None of the five statements contains any accurate exposition of the actual claimed risk. Consequently, no effect on consumers' risk perceptions can be expected. The statement, for example, that "quitting now greatly reduces the risks to your health" is totally meaningless without explicit metrics for the phrase, "greatly reduces." The assertion as it stands is gross and imprecise and therefore is potentially more confusing than enlightening.

4. The proposed statements can be expected to produce a "boomerang" effect—a result precisely the opposite of what was intended—by negative reenforcement. For example, proposed statement D claiming that . . . "cigarette smoking by pregnant

women may result in miscarriage, premature births or child weight deficiencies" implies that smoking is potentially hazardous only to pregnant females rather to all women. By inference, this label actually sanctions cigarette smoking for all women so long as they are not pregnant.

Further, we all have witnessed women who smoke and who give birth to perfectly normal infants as well as the reverse, nonsmokers who unfortunately produce offspring with a variety of defects. How will the proposed labeling cope with these realities? Women who know other women who smoke and yet give birth to healthy children would be likely to disregard this warning.

5. The proposed warnings are based primarily on the appeal to fear. Label message recipients would be told by inference that they can avert the dangers of cancer, heart disease, birth defects and so on only if they do not smoke cigarettes. Often, when consumers encounter such strong or exaggerated fear appeals, they become immobilized to the point where they resort to "defensive avoidance" rather than to taking a recommended action.

6. The most useful and productive function of health warning labels is to reinforce and to serve as a reminder for what consumers already know. For this reason alone, tampering with the current well-known Surgeon General's warning statement would appear to be imprudent.

It is apparent that current public information programs in the cancer and allied health fields is in embarrassing disarray. Insipid slogans frequently are offered in place of facts and precise instructions for acting appropriately. Gimmicks like the "Great American Smoke-Out" substitute for integrated and sustained sober communications and educational programs of demonstrated merit. And truly instrumental information regarding, for example, the identity of the best cancer specialists in town is quite consciously withheld from concerned publics. Added to this state of affairs are the inconsistent positions that the health establishment itself takes from time to time with regard to such consequential matters as the effifacy of annual screenings for cancer of the cervix/uterus; the dangers of early or frequent mammography; the carcinogenic character of food additives; the positive/negative attributes of cholesterol; and conflicting claims as to whether most cancers are environmentally rather than genetically or virally induced.

The purpose of information should be to enlighten by virtue of its ability to reduce uncertainty. Contemporary public health efforts appear to be doing just the opposite—adding to the public's uncertainty—by virtue of the imprecision, obfuscation, gimmickery, clutter, inconsistency and avoidance of embarrasing and difficult truths. Under such circumstances the public's beliefs in the efficacy of actually preventing cancer and heart disease is undergoing severe testing. Small wonder that the laetrile and coffee enema dispensers flourish in today's gimmick-laden public communications atmosphere. For the Federal government to contribute to this sorry situation with its own groundless gimmickery, such as the rotational warnings proposed by S. 1929, will make more sober and promising health education efforts in the future all the more difficult to carry out with success.

STATEMENT OF BURNS W. ROPER, CHAIRMAN, THE ROPER ORGANIZATION, INC.

Mr. Chairman. Thank you for providing me the opportunity to appear before you and your Committee.

We have conducted extensive opinion surveys over a period of years for the tobacco industry and we also conducted a survey on the subject of smoking and health for the Federal Trade Commission in 1980. The bill you are considering would implement the cigarette labeling requirements that were recommended in the Federal Trade Commission Staff Report on the Cigarette Advertising Investigation, dated May 1981. While that staff report cites various opinion survey results, two Roper surveys are cited extensively in support of the report's contention that stronger and more varied cigarette warnings are needed, both on cigarette packages and in cigarette advertising. One of the studies so cited is the report of a private survey we conducted for The Tobacco Institute in 1978 which was subpoenaed by the FTC and subsequently publicly released by the FTC. The second was a survey we conducted specifically for the FTC in 1980.

The staff report does not directly attribute the conclusions they reach—that stronger and varied warnings are required—to our organization. Nor do I have any objections to the way they have reported the facts in our surveys. At the same time, if I were to remain silent, I think a reader of the FTC staff report would be justified in assuming that we concur with the conclusions reached by the FTC.

I do not agree with their conclusions that stronger and more varied warnings are needed.

The FTC staff concludes from our and other survey data that the public is inadequately informed about the dangers of smoking. From the same and other data I would conclude almost exactly the opposite. In other words, that the public is highly aware of the reported dangers of smoking—more aware of them than they are of most things in our society.

In our 1978 survey—the one conducted for The Tobacco Institute but later subpoenaed and released by the Federal Trade Commission—we drew up a balance sheet of the survey's findings. We listed assets on one side of the page and liabilities on the other side. The first two liabilities to the industry's position that we cited were, and I quote:

"1. More than nine out of every ten Americans believe that smoking is hazardous to a smoker's health.

"2. A majority of Americans believes that it is hazardous to be around people who smoke even if they are not smoking themselves."

I would submit that this hardly represents unawareness of the problem.

In one of our regular ROPER REPORTS surveys, in March of 1978, The Tobacco Institute commissioned us to ask a question that Cambridge Research, then headed by President Carter's pollster Patrick Cadell, had previously asked. That question was: "Taking all types of the disease cancer together, what do you think is the major cause of cancer today?" The single most frequently given answer to that question was smoking cigarettes. Nearly twice as many said smoking cigarettes as gave the next highest answer which was food additives, chemicals, and preservatives in food. More than twice as many answered smoking cigarettes as gave the third highest answer which was air pollution or chemicals in the air we breathe. To be sure, only one in three named smoking cigarettes as the primary cause, which might seem to imply that 68 percent were unaware of any link between smoking and cancer. That would be a misconstruction of the results, however, for open-ended or free hand questions such as this do not normally tap more than one or two of a respondent's thoughts. This is particularly true in this question where respondents were asked for the major cause—in effect, one answer.

The fact that awareness of the link is substantially higher than one-third is shown by the 1978 study I cited earlier. In that survey we asked people whether each of a number of things make "a great difference, some difference, or almost no difference" in "how long a person lives." These were such things as if a person is 20 pounds overweight, or if a person drinks 3 or 4 highballs a day. The fifth condition asked about in this series was "if a person smokes a pack of cigarettes a day." Fifty percent said that makes a great difference in how long a person lives. Another 40 percent said it makes some difference. Thus, nine out of ten think cigarette smoking affects, to one degree or another, how long a person lives.

I contend that nine out of ten is extremely high awareness of the risks, not low awareness.

In that same survey people were also asked the following question: "It has been said that cigarette smokers have more of certain illness than non-smokers. Would you say that this is definitely true, probably true, of not true?" Only 11 percent said it was not true and only 4 percent said they didn't know. Thus, 85 percent think there is some degree of truth to the fact that smokers have more illnesses than non-smokers. And the largest single portion of that 85 percent think it is definitely true.

I cite these two questions to put in perspective the openended question I mentioned in which 32 percent said cigarette smoking was the major cause of cancer. The significance of that result is not that "only" 32 percent are aware of the danger. The results I have just cited show that awareness is at the 85 or 90 percent level. The significance of the 32 percent is rather that nearly twice as many cite cigarette smoking as the major cause of all cancer—not just lung cancer—as cite the second most frequent cause.

There are various specific conclusions in the FTC staff report that I could take issue with, but in the interests of time I will only cite one of them. On page 5-24 of the FTC staff report, the following statement appears based on our 1978 survey for The Tobacco institute:

"Sixty-one percent of those polled and 69 percent of the non-smokers polled favored the proposed new warning. Only 34 percent of those polled and 26 percent of the non-smokers favored the current warning."

The implication of this citation is that this shows the need for a stronger warning. To me, it shows the reverse. Sixty-one percent would not favor a stronger warning unless they were already aware of the dangers.

In our study for the FTC, we asked a number of multiple choice questions. For example, how many times more likely a smoker was than a non-smoker was to get disease X—"less than twice as likely, twice as likely, five times as likely, ten times as likely, or 20 times as likely?" Most people did not cite what the FTC regards as the correct answer, leading the FTC to the conclusion that people are ill-informed. However, the great majority of people did answer more likely, even if not the exact number of times more likely, which leads me to the conclusion that in terms of basic information most people are generally pretty well informed.

Incidentally, this is not the first time I have expressed these views. I expressed them to Congressman Henry Waxman in a letter dated March 10 of this year. I also expressed them to our contact at the FTC staff report was issued. This was in a letter dated December 5, 1980—a letter *I* feel comfortable attachng to this statement, since I am told it has subsequently been make public.

When we were doing the survey for the FTC and we were objecting to some of the questions they wanted us to ask, I gave an analogy to an FTC lawyer. I said that if I were to ask you if the sun is a lot farther from the earth than the moon is, or a little farther from the earth than the moon is, or about the same distance from the earth as the moon is, you would have little trouble answering that it is a lot farther, thus indicating a high general awareness of the relationship of the sun and moon to the earth. But if I were to ask you whether the sun is 43 times as far from the earth as the moon is, or 122 times as far, or 266 times as far, or 389 times as far, it is possible you would not select the correct answer.

Does the fact that people know the sun is a lot farther away than the moon mean that they are well informed, or does the fact that few people said 389 times as far mean they are poorly informed?

Therein lies the fundamental difference between my interpretation and the FTC's interpretation—of the very same data. I would not argue that more severe and varied warnings would lessen public understanding of the dangers. But I would argue that they are unlikely to increase the awareness much, for it is already at a very high level.

In closing, I would like to add just one personal concern about focusing on cigarettes as the cause of cancer that seems to me to have dangerous implications. The more emphasis that is put on "cigarette smoking is the cause of cancer", the more I think it will serve to obscure public, governmental and medical attention to other health dangers and other causes of cancer that could be equally serious or possibly more serious. We can stop worrying about air pollution because "we all know that it is cigarettes that cause cancer". We can stop worrying about radiation because "we all know hat it is cigarettes that cause cancer". We can stop worrying about chemicals because "we all know that it is cigarettes that cause cancer".

Let me not be misunderstood. I am not suggesting that cigarette smoking is physiologically good for a person, even if it may be psychologically good for some people. I am not even suggesting that cigarette smoking is without risk. What I am saying is two things. People are about as aware of the risks as I think it is likely to make them, and overstress of that risk runs the danger of diverting people from other risks.

Finally, let me reiterate my purpose in being here today. It is not to dissociate myself from the survey data cited in the FTC staff report. It is to dissociate myself from the FTC staff's conclusions that the public is unaware and uninformed.

Thank you Mr. Chairman.

STATEMENT OF PROF. YORAM J. WIND

I am Yoram (Jerry) Wind. Since 1973 I have served as Professor of Marketing at the Wharton School of the University of Pennsylvania, and am the past editor of the *Journal of Marketing*. I have been on the faculty at Wharton since receiving my doctorate degree from Stanford University in 1967. My specialty is marketing research, with particular emphasis on the analysis and measurement of consumer behavior. During the past fifteen years I have served as a research consultant for various government agencies and about 100 companies and have published extensively in many areas of marketing. A résumé of my educational background and professional activities, and a bibliography of my publications, are attached to this statement.

I have been asked by The Tobacco Institute to present my views, as an expert in marketing and consumer behavior, on the theoretical and factual support for certain of the provisions of S. 1929. My testimony will deal with the proposed findings that existing government and private programs, including the Surgeon General's

warning statement, have not adequately informed the public about smoking and health issues, and the proposal to replace the current warning statement with a rotational system of five different warning statements. My comments are based on an evaluation of a document issued in May 1981 by the Staff of the Federal Trade Commission entitled Report on the Cigarette Advertising Investigation, which I understand was submitted to Congress and was based on a rationale that appears to be similar to that underlying the labeling provisions of the present bill. I also have reviewed the consumer studies and surveys that are principally relied upon in that Report.

My conclusion can be stated in one sentence: to the extent that the labeling and advertising proposals contained in S. 1929 are based on the recommendations and conclusions set forth in the FTC Staff Report, those proposals are without factual or theoretical support and are unlikely to achieve the bill's objective.

I base that conclusion on two key points:

First, the level of public awareness about various smoking and health issues, as demonstrated by the studies and surveys cited in the FTC Staff Report, is extraordinarily high—much higher than one would expect to result from normal advertising and marketing methods. The efforts of the FTC Staff to minimize the extent of public awareness on these issues are based on misinterpretation and misuse of the studies cited in the Report and a fundamental confusion between awareness and belief. The conclusion presented in the bill that "present Federal, State, and private initiatives have been insufficient in conveying to the American Public" information about the asserted health effects of smoking (Sec. 2(6)), is not consistent with the findings of the studies relied upon by the FTC Staff Report.

Second, there is neither theoretical nor empirical support for the proposition that the rotational warning system proposed in S. 1929 and recommended by the FTC Staff would have any positive impact on the level of public awareness about smoking and health issues. Replacement of the current warning statement with five different rotational warnings thus would be totally arbitrary.

I would like to elaborate on each of these points.

With respect to the existing level of public awareness, the FTC Report begins its analysis with the admission that "most people are generally aware" of the claims about smoking and health. The report cites a 1978 Gallup Opinion poll, which indicates that more than 90 percent of the public believes that smoking is hazardous to health. Similar high percentages respond affirmatively to more specific issues: over 90 percent of the public believes that heart disease has been found to be associated with smoking; almost 90 percent believes that smoking during pregnancy can affect the smoker's baby; 87 percent of adults are of the view that smoking has been found to be associated with cancer of the mouth and with chronic bronchitis; well over 80 percent either "think" or "know" that smokers are many more times as likely to develop lung cancer as nonsmokers.

These responses are remarkable. National surveys and polls consistently identify substantial segments of the American public who are unaware of major public issues and facts—the energy crisis, the identity of the President and other public leaders—the examples are numerous.

A measured level of 90 percent awareness can be considered "deficient" only if it is compared to a standard of perfect awareness. But it should be obvious that such a standard is both theoretically and practically impossible. The limits of human cognitive abilities and selective perception mechanisms insure that 100 percent of any group will never be aware of or in agreement about any fact or issue. That is why there is a distribution of responses in any test, particularly a test involving multiple choice questions such as the studies cited in the FTC Staff Report.

An equally important defect is the FTC Staff's fundamental misinterpretation of the results of the consumer studies on which it relies. Six major misinterpretations can be identified.

First, the Staff improperly focussed on responses to specific questions, rather than on patterns of responses. The Staff assumed throughout its discussion of public awareness that if a number of people are not aware of a specific detail about the smoking and health issue—for example, the claim that the smoking during pregnancy increases the risk of still birth and miscarriage—those people are not aware of the general proposition that encompasses that detail—that is, the assertion that smoking during pregnancy increases the risks of adverse effects on the baby.

This assumption is contrary to the actual results of the studies cited in the report, which show that most people are aware of all of the significant claims about smoking and health. It also violates fundamental principles about measurement of knowledge or awareness, which call for the development of an overall knowledge score or scores based on response to multiple items. Can your knowledge of a sub-

ject, let's say economics, politics or health, be assessed accurately by your response to a single question on each topic? Yet this is analogous to the FTC Staff's reliance on the response to a single question on the health effects of smoking.

The second area of misinterpretation is the Staff's assumption that anyone who responds incorrectly to multiple choice questions involving detailed statistics or medical knowledge is insufficiently aware of the fact of issue involved in the question. Respondents were asked numerous questions involving precise details, such as "Out of every hundred people who get lung cancer, how many die from it," and were provided with six alternative answers. According to the Staff, anyone who picked other than the answer that the Staff called correct—95—"did not appreciate the severity of lung cancer." In fact, however, the vast majority of respondents chose either 45, 75, or 95, indicating that they believe that lung cancer has a high mortality rate of at least 1 of every 2 of those suffering from the disease. That belief hardly supports the Staff's conclusion.

Similarly, the Staff interpreted "don't know" answers to such questions as a lack of awareness on the part of the respondent. But such an answer is equally susceptible to the interpretation that the respondent is aware of the statement presented but is unsure of the precise statistics involved. In my previous example, a person who believed that most people with lung cancer die from that disease, but who was not sure whether the correct proportion is 85, 90, 95, or 97 out of 100, might answer "don't know." The Report would erroneously have included that person in the category of those who "do not appreciate the severity of lung cancer."

Still another interpretation of the "don't know" answer is the one offered by Mark Twain in Life on the Mississippi: "I was gratified to be able to answer promptly, and I did. I said I didn't know." Recognizing this, the Interviewer's Manual of the Survey Research Center of the University of Michigan points out that the answer "I have no opinion on that" can mean merely "wait a minute, I am thinking" and advises that it is a good idea to probe all "don't know" responses. No probing was conducted in the studies relied upon by the FTC Staff.

Third, many of the so-called "incorrect" responses to the studies could have resulted from simple lack of understanding of the questions. The studies primarily relied upon in the Report on the issue of public awareness were based on telephone surveys. In such interviews, it is not reasonable to expect a high percentage of correct answers to complex questions such as those that were asked in the studies.

Let me give you an example of one such question. Imagine that I have called you out of the blue, explained who I am, and ask you a long series of questions. Even if you have remained interested and alert throughout the interview, you must respond to such questions as this one:

"How many Americans living today will eventually die from diseases related to smoking cigarettes? None, one out of two, one out of six, one out of ten, or one out of a hundred?"

The ambiguity of the phrasing—does the word "Americans" refer to all Americans or only those who smoke?—as well as the precise statistical answers presented turn such surveys into a guessing game rather than a test of knowledge or awareness.

Fourth, none of the studies cited in the Report included supporting data as to the reliability and validity of their findings. That is, no evidence was offered to show that the series of questions asked were a reliable measure of public awareness or knowledge about any particular issue. For example, how many respondents would provide the same answers if they were reinterviewed a few weeks later? Furthermore, no validation of the results was provided. Indeed, given the focus of the FTC Staff Report on substantive conclusions, if it were submitted to a professional publication such as the Journal of Marketing during my editorship, or Marketing Science today, it would be rejected due to the lack of any validation procedures for the studies upon which its conclusions are based.

Fifth, neither the Staff Report nor the studies presented any norm against which to compare the survey results. In the classic text on testing, Educational Measurement, William Angoff of the Educational Testing Service states:

"By now it has become almost axiomatic that raw scores on a test yield no meaning unless they are accompanied by relevant supplementary data that will place the score in an appropriate interpretive context."

In other words, it is impossible validly to conclude that the answers to a particular survey represent a high, low or medium level of awareness in the absence of a standard that would show what answers are to be expected.

Sixth, and most fundamentally, the Report's conclusions, and to a large extent the studies upon which the conclusions are based, reflect a hopeless confusion of the

very distinct concepts of awareness versus knowledge and belief. The Staff Report defines "unaware" as:

". . . those who say they *do not believe true statements; believe false statements; underestimate* on a multiple choice question or answer *'don't know'* or *uncertain.*" (FTC Staff Report at p. 17 note b, italics added)

There is no conceptual justification for combining these five diverse responses. Belief is not awareness or knowledge; search of the precise "correct" answer is not reasonable; "don't know" is both a function of the question wording and the item of concern; and uncertainty does not necessarily represent lack of awareness.

One example of this faulty definition of "awareness" is the FTC Staff's misuse of the 1980 Roper Study cited in the Report. That study asked people "how true you personally think" a particular statement is. The interviewer was instructed to introduce those questions to the respondents as follows: "Now I'm going to read you some statements about smoking and health, and for each one I'd like you to tell me your beliefs about how true the statement is." Respondents were permitted to answer only "know it's true," think it's true," "don't know if it's true," "think it's not true," or "know it's not true." The Staff concluded that those responding in the latter three categories are "unaware" of the information conveyed by the specific statements made. It is obvious, however, that a respondent could be aware of a claim (for example, that smoking increases the risk of heart attack) yet disagree with it.

The ETC Staff consistently misused the studies in this respect to support its erroneous conclusions about awareness. Let me read another example from page 3-19 of the Report:

"According to the Gallup Opinion Index, June 1978, 19 percent of the population do not believe that smoking causes lung cancer . . . Among all smokers, 28 percent did not believe smoking caused lung cancer while among heavier smokers, nearly one-third—31 percent—did not believe or know about the link. . . . Projected nationwide, these data suggest that tens of millions of Americans, both smokers and non-smokers, do not know that cigarette smoking causes lung cancer.

The Staff's conclusion simply does not follow from the data. This fundamental type of error—confusing consumer awareness with consumer belief—undermines any recommendations that might be based on a premise that the public is not adequately informed about smoking and health.

The FTC Staff Report—and presumably the present bill—proceed from the premise that the public is inadequately informed about smoking and health issues to the conclusion that a new system of warning statements is necessary to rectify this inadequacy. As I have attempted to demonstrate, the available data do not support the premise. But it is equally disturbing that the new system of warning statements recommended by the Report and by S. 1929 are not likely to achieve any positive impact on consumer awareness about smoking and health issues.

There is no evidence that specific warnings such as those proposed in S. 1929 would result in any increase in public awareness. The only study of which I am aware that relates to this issue is a study conducted for the FTC Staff by Burke Marketing Research to test the recall of different types of proposed warning statements and formats. This study has three major limitations. One, it is restricted to warning statements in cigarette advertising, not packaging. Two, the sample of respondents is not representative of the American public, and thus the projectability of the study's results is questionable. Three, the study included only two new warning statements and the current statement as a control; the two statements tested are not among those proposed by the present bill.

Given these limitations, it is clear that the study does not provide empirical support for the present proposal. But even were one to assume away the limitations and accept the results of the study as valid, there is no significant difference between consumer recall of the current warning and the alternative warnings presented in the study (using the same format). Thus, the study results demonstrate only that consumers best recall those matters that they already had learned from the present warning statement and from the numerous other sources of information about smoking and health. For example, the study found that a specific lung cancer warning was "no more effective than the non-cancer warnings in eliciting mentions of the relationship between smoking and cancer."

Indeed, it is quite possible that the rotational warnings proposed by S. 1929 would have an opposite effect of what is intended by the bill's sponsors. The present Surgeon General's warning statement is embedded in the public consciousness, as well or better known than the proposition that people should wear seat belts. If instead appear statements linking smoking to specific health problems, consumers might well conclude that the Surgeon General has changed his opinion and no longer con-

siders smoking to be generally hazardous to health. Moreover, by focussing on specific problems, the warnings become significantly less relevant to various segments of the population. Teenagers, for example, are unlikely to be concerned about emphysema or heart disease; single men and older women are not likely to pay attention to a warning that smoking may cause problems during pregnancy. Neither the FTC Staff Report nor the present bill appears to have given any consideration to these potential consequences of a rotational warning system.

In conclusion, nothing in the studies cited by the FTC Staff or the rationale suggested in the bill itself supports (a) the diagnosis that the public is unaware of the claimed health hazards of smoking and (b) the prescription that the replacement of the current Surgeon General's warning with a rotational system of five different warnings will have any positive effect on consumers' awareness about smoking and health issues. The labeling proposals simply are unsupported by facts or theories about consumer behavior. Hence, I urge this Committee to reconsider the advisability of the labeling provisions of S. 1929.

STATEMENT OF THE BAKERY, CONFECTIONERY & TOBACCO WORKERS INTERNATIONAL UNION

The Bakery, Confectionery and Tobacco Workers International Union represents over 160,000 workers in the United States and Canada. Approximately 30,000 of our members are employed in the U.S. tobacco industry.

We present this testimony on behalf of all of our members—those who are employed in that industry, as well as those employed in the various aspects of the food production industry. We also speak on behalf of the many workers in the tobacco industry who are not organized and do not, therefore, have a collective voice to represent them at the hearings.

We oppose S. 1929, The Comprehensive Smoking Prevention Education Act, for two very important reasons.

First, it threatens our industry and our workers with the needless loss of sales, earnings, and ultimately, jobs.

Second, it threatens a host of other workers in other industries and the general public with the loss of protection against hazardous environmental and occupational exposures.

To put it plainly, this legislation is not what it seems to be. It is not merely a harmless labeling bill, but rather the first step down the road to prohibition. In fact, it is not merely a tobacco and health bill, but rather a red herring that could be used to divert attention from efforts to undermine other health policies and programs.

Mr. Chairman, this bill masquerades as labeling legislation, but there is an issue behind the issue. The hidden issue is whether national policy should shift from education to prevention, from choice to coercion.

This Committee will have to decide between those two roles for the government. Should the government continue to give people information so they can make their own free choice? Or should it aggressively persuade individuals to modify their behavior until they stop?

Present U.S. policy calls for the public to be informed, the measure of effectiveness being the extent of public awareness. Awareness stands at an astonishingly high level of 90 percent, verging on universal acceptance according to behavioral scientists.

The neo-prohibitionist strategy of this bill calls for prevention, and is based on the theory that if people reject the government's admonitions, they cannot really be informed—and, therefore, must be reformed. The new measure of effectiveness shifts from knowledge to conformity.

Even on these terms, the present policy of education is working! The prevalence of smoking has dropped to 35 percent, the lowest ever recorded by the Gallup Poll. But apparently, it is not enough that awareness is at its highest level, and smoking, the disapproved behavior, is at its lowest point.

That more prevention is nevertheless prescribed betrays the neo-prohibitionist motivation that lies just under the surface.

This motivation explains why the bill loads packages and advertising with more warnings and lists than any other product is required to carry. It also explains why the bill opens the door to a massive overload of litigation. If these prohibitionist effects succeed in depressing sales by just one percent, the adverse impact would be significant. Based on data from a recent Wharton study of the tobacco industry's contribution to the U.S. economy, we estimate that the loss for just nine of the

states (California, Illinois, Kentucky, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas) would be more than 10,000 jobs and more than $170 million in wages. One-fifth of this loss would come from tobacco farming, manufacturing, retail sales, and suppliers; the remainder would result from the ripple effect on the rest of the economy.

Further economic hardship would result from the loss of export markets and of American jobs that depend on exports. This bill goes far beyond existing legislation by requiring warning labels on cigarettes produced in this country for export. Could American cigarettes carrying a health warning label compete with cigarettes which bear none? Can there be any doubt of the result on sales and on American jobs?

The American Cancer Society, a major lobbying force for this legislation, wants to cause more than a one percent drop in smoking. Several years ago, they launched their Target Five campaign, aimed at a 25 percent decrease in smoking in five years. And, it must be recognized that in Sweden, the source of this bill, the government's stated goal is to achieve a smoke-free nation by the year 200[illegible].

We seriously question the wisdom of buying the Swedish import for Americans. We seriously question the wisdom of disrupting a healthy industry and creating more unemployment in a recession. We question the wisdom of setting up a new anti-smoking bureaucracy with unspecified spending authority when other esential health and social programs are being slashed. Mr. Chairman, we do more than "seriously qustion the wisdom" of this bill—we reject its folly.

Now, let us turn to the second major ground for our opposition.

Section 3 deals with so-called findings. These blame every major chronic disease on smoking, and thereby create a smoke-screen for the occupational and environmental factors involved.

The very first one states that "the Congress finds that cigarette smoking is the largest preventable cause of illness and premature death in the United States and is associated with the unnecesary deaths of over three hundred thousand Americans annually."

At first glance, it is difficult to conceive of a statement more alarming, more compelling, more demanding of remedial action. It calls for nothing short of outlawing tobacco.

But on reflection, this finding is curiously phrased; the words have an Alice-in-Wonderland quality. Their meaning is hard to pin down. For example, if cigarette smoking is the "largest preventable cause of illness," what are the second and third largest preventable causes"? What are the "non-preventable causes"? Is smoking "preventable" while environmental pollution is not?

If these statements of findings had to be substantiated, as the FTC requires advertising statements to be, I doubt they would survive. The bill says flatly that smoking "is associated with" over 300,000 deaths a year. Yet, the first Surgeon General's Report in 1964 stated: "The total number of excess deaths causally related to cigarette smoking in the U.S. population cannot be accurately estimated."

The Committee which wrote the report considered the possibility of trying to make such calculations, but rejected the idea because "it involves making so many assumptions that the Committee felt that it should not attempt this . . ."

That restraint is as needed now as it was then.

We believe the findings in this bill are unsubstantiated and will be misused to the detriment of millions of workers exposed to occupational hazards. We oppose this bill and its findings to show our solidarity with:

Coal miners whose black lung disease has been blamed on smoking.

Textile workers whose brown lung disease has been blamed on smoking.

Asbestos workers whose lung diseases have been blamed on smoking.

And the list includes uranium workers, chemical workers, metal workers, shipyard workers, and many others. Public Health Service and the voluntary health organizations should honestly abandon the blame-the-victim approach and get at the truths of what is causing disease.

Earlier this year, the Congress heard testimony from two scientists who reported that "at least 11 percent and more likely 21 percent" of lung cancer in the U.S. can be attributed to air pollution. They noted that the proportion of adult smokers has decreased and that cigarettes now contain half the tar content of 20 years ago, yet lung cancer rates continue to climb. "To us this indicates that something else is at work," the scientists said.

But to the supporters of this bill, it's all cigarette smoking.

Recently, the National Wildlife Federation reported that "responsible scientists believe air pollution is responsible for about 50,000 excess deaths, seven million sick days, and 15 million days of restricted activity per year."

But to supporters of this bill, it's all cigarette smoking.

The lung cancer rate for white men along the coastal sections of Northern Florida, South Carolina and Georgia are among the highest in the nation. The National Cancer Institute says it may be the result of exposure in the booming shipbuilding industry during World War II. A Florida State University study attributes it to airborne chemical pollutants from industrial plants in New York and Illinois.

But to the supporters of this bill, it's all cigarette smoking.

The New York Times has recently looked at the growing controversy over whether environmental or lifestyle factors cause cancer. The former chief epidemiologist of the American Cancer Society, and others associated with the industrial establishment, believe that cancer causing pollutants are relatively minor factors compared to factors such as smoking, diet, alcohol, and even sexual and reproductive behavior, a view that is consistent with the bill's "findings".

But the New York Times also reported that other scientists believe that factors other than smoking are involved; they are worried about "poisons escaping from smokestacks, toxic waste dumps, nuclear reactors." They are worrked that "black men smoke less than whites, yet have higher lung cancer rates, perhaps because they have * * * more hazardous jobs."

But the supporters of the bill have no similar worries; to them, it's all due to smoking. Politics makes strange bedfellows. The House version of this Act has been introduced by a member with a 100 percent AFL–CIO voting record; S. 1929 has been introduced by a man with a zero AFL–CIO rating. We can't split the difference. We totally oppose both bills.

And in doing so, I would like to point to a report adopted by the AFL–CIO Executive Council in 1980:

"Some employers have exploited scientific studies of the combined effects of smoking with occupational exposure to toxic substances and conclude that it would be unnecessary to control exposure of these substances, if workers stopped smoking.

"The AFL–CIO is opposed to any coercive efforts to infringe on individual rights of individuals who smoke or of those who don't. We also oppose misuse of scientific data concerning smoking and exposure to toxic substances to serve as a rationale for failure to take necessary steps to prevent worker exposure to toxic substances in the workplace, which are shown to adversely affect their health."

We are impressed by the foresight of the Executive Council in stating 2 years ago the fundamental basis for rejecting this legislation today.

STATEMENT OF THE AMERICAN SOCIETY OF PREVENTIVE ONCOLOGY

The American Society of Preventive Oncology is a scientific organization devoted to studies of cancer causation and prevention. Its membership of 470 includes clinical oncologists (specialists in cancer treatment), cancer epidemiologists (who investigate risk factors for various cancers), and laboratory scientists who study mechanisms of carcinogenesis. The individuals are drawn from major medical schools, other academic institutions, and governmental agencies throughout the United States and Canada. As an organization, we strongly support Senate Bill 1929 (and its companion House of Representatives Bill 5653), the Comprehensive Smoking Education Act.

The health hazards of smoking are well-established, as attested to by the 30,000 scientific studies reviewed in the Surgeon General's Report on Smoking and Health issued in 1979. Cigarette smoking is the number one preventable cause of cancer in the United States; it is estimated that 30 percent of the 430,000 cancer deaths among Americans expected in 1982 could have been avoided if it were not for smoking. For some specific cancers, the proportion of deaths attributable to smoking is much higher, e.g., 85 percent of cancers of the lung, 50 percent of cancers of the larynx and esophagus, 35 percent of cancers of the bladder and kidney, and 30 percent of pancreatic cancers. When cancer deaths are combined with those from other smoking-related diseases (e.g., heart attacks and emphysema), it is estimated that 340,000 deaths in this country each year result from cigarette smoking. When one considers, along with those mortality statistics, the lives and property lost due to fires caused by cigarettes, disability days incurred for smoking-related illnesses (bronchitis, allergy, and other respiratory ailments), and hospitalization and treatment expenses, the true costs in both human and monetary terms are staggering.

In light of the overwhelming evidence regarding the health hazards of cigarette smoking, it is of paramount importance that people who choose to smoke are fully informed of the risks they undertake and that they are continually reminded of those risks. The present imbalance between pro-cigarette advertising and anti-smoking educational campaigns is revealing: more than $1 billion was spent by the six

leading U.S. tobacco companies to promote cigarettes in 1980, compared to less than $10 million by the combined efforts of the American Cancer Society, the American Lung Association, and the American Heart Association, and a paltry $750,000 by the Federal Office on Smoking and Health. We are surrounded by cigarette advertising at every turn—in magazines, newspapers, billboards, sports and fashion sponsorships, taxi cabs and buses, even special national polls conducted by the manufacturers of certain brands. It is indeed ironic that the product that is the number one cause of mortality in this country is also number one in advertising.

The present warning on cigarette packages (that reads, "Warning: the Surgeon General has determined that smoking is dangerous to your health") is certainly better than no warning at all. However, it is abstract and does not mention any specific diseases caused by smoking; it is therefore unlikely to be taken as a concrete warning that individuals can apply to themselves. Moreover, the "sameness" of the warning has made it all but invisible. Therefore it is not surprising that recent national surveys by the Roper and Gallup organizations show that 31 percent of cigarette smokers are unaware that smoking greatly increases one's risk of cancer. S.B. 1929 proposes to more accurately inform the public by authorizing that the package warning labels refer to specific diseases and that the warning be varied periodically so that smokers of a particular brand will read about different health hazards every few months, e.g.:

Warning: Cigarette smoking is the number one cause of emphysema and lung cancer.

Warning: Cigarette smoking by pregnant women may result in birth defects or spontaneous abortion.

Because the proposed warning labels would identify specific diseases (lung cancer, emphysema, heart attacks), people might be more likely to personalize the risks. Individuals in certain high risk groups, for example pregnant women, would learn of the special dangers smoking poses for them. In the fact of the bold and colorful ubiquitous positive imagery conveyed in cigarette advertising, the bill is a step to provide information to make the decision to smoke truly informed.

Two-thirds of the American public do not smoke. This reflects a decline in recent years in the proportion of smokers in the population, a downward trend whose acceleration should be encouraged. Cigarette advertising attempts to buck the trend, providing positive support for smoking in the fact of clearcut negative medical consequences. Industry representatives claim that advertising merely influences brand choice but does not prompt non-smokers to begin smoking. This rationale is belied by the use of young, athletic, attractive models in cigarette advertisements, individuals who are age-matched role models for young people on the threshold of making the decision whether or not to smoke. Moreover, the industry stance ignores the critical importance of the pro-smoking reinforcement that ad imagery provides for the many smokers who wish to quit.

Another provision of the bill that we strongly endorse relates to the requirement for tobacco manufacturers to disclose, upon request, the additives contained in cigarettes. More than 1,400 additives are used to enhance flavor, moisten, or slow the burn of cigarettes. Exactly which of these is contained in any given brand is presently not reported, but cigarette additives are known to include cocoa, licorice, coumarin, glycerol, triethylene glycol, and catechol, among hundreds of others. Based on laboratory tests, there is reason to believe that all of the named substances may have a role in carcinogenesis. As tar and nicotine levels in cigarettes have been reduced in response to health concerns, we worry that unknown compensating additives may have their own adverse health effects that will be very difficult to investigate in the laboratory if those chemical components remain secret.

Rarely, if ever, have the data on any medical issue been so unequivocal, but revenue comparable to that invested by the cigarette industry is not available to health agencies to present a balanced view to the public. The Executive Committee of the American Society of Preventive Oncology urges strong congressional support for the Comprehensive Smoking Education Act, an idea whose time has long since come and one whose importance should be obvious to political leaders who are truly concerned with the health of the American public.

Statement of the American Medical Association

The American Medical Association takes this opportunity to comment on S. 1929. The bill states its purpose is "to provide a new strategy" to educate and provide information to the American public that will allow individuals to make informed decisions concerning smoking." The bill would accomplish this by replacing the cur-

rent general health warning found on cigarette packages with seven specific health warnings. One of the seven specific health warnings would be required on all cigarette packages and in advertisements. The warnings would be rotated among brands so that each brand would use all warnings within a fifteen-month period. S. 1929 would also require the "tar," nicotine and carbon monoxide levels to be disclosed on packages and advertisements. Cigarette manufacturers would be required to provide the Federal Trade Commission with a list of the chemical additives in each of their brands of cigarettes. This information would be protected as a trade secret and used only for research purposes.

COMMENTS

The United States Surgeon General stated in his recent report, "The Health Consequences of Smoking," that "cigarette smoking . . . is the chief, single, avoidable cause of death in our society and the most important public health issue of our time."

A decision to smoke should be made with the knowledge that increased health risks are associated with smoking. For this reason the AMA is supportive of efforts to increase public awareness of the hazards.

The AMA has been involved in many efforts to increase the public's knowledge of the consequences of smoking. The AMA receives and answers many requests for smoking information. In 1978 the AMA published "Tobacco and Health," an account of the comprehensive research program conducted by the AMA. A pamphlet called "Smoking: Facts You Should Know," a copy of which is attached, has been widely distributed along with two anti-smoking posters. Physicians are urged to alert smokers to the risks associated with smoking.

Our comments address only the rotational labeling provisions. We find it very disturbing if, as a recent FTC staff report alleges, approximately ten percent of the population still do not know that cigarette smoking is harmful. Believing a more detailed warning would better inform the public of the harm of smoking, the AMA House of Delegates adopted a report encouraging Congress to require a more explicit warning on cigarette packages.

In testifying before the Subcommittee on Health and Scientific Research of the Senate Committee on Human Resources in 1978 on a similar labeling provision contained in S. 3115, (95th Congress) the Disease Prevention and Health Promotion Act of 1978, the AMA endorsed the rotational labeling warning concept. We recommend at the time that if adopted the rotational labels "should be evaluated after a period of use to see if there has been any substantial difference in the public's awareness of health problems associated with cigarette smoking." We still believe the effectiveness of the labels should be evaluated.

A more explicit warning, while an improvement, will not be a complete solution. The 1980 Surgeon General's Report on Smoking and Women reveals that smoking is increasing among teenagers. The AMA is concerned about teenage smoking and does not believe a change in the warning alone will fully deal with the problem. Educational programs that emphasize the harmful aspects of smoking from a teenager's point of view should be pursued, and the use of "role models" in cigarette advertisements should be eliminated. Issues of concern to an adult, like a decrease in life expectancy, may not influence a teenager's decision to smoke. More information is needed on youth smoking, such as why they begin to smoke, why they quit smoking, and what method is most effective in urging teenagers to quit smoking. Once this information is available efforts to reduce teenage smoking can be better directed.

Even those who are aware of the dangers of smoking may have difficulty quitting because of the addictive qualities of cigarettes. The recent Surgeon General's report shows that up to 50 percent of those who quit smoking on their own will stay off cigarettes. Assistance must be provided to the remaining 50 percent if smoking is to be decreased significantly. The AMA is developing an audiovisual presentation on how to quit smoking that will soon be available for physicians to use in assisting patients desiring to quit smoking. If adopted, a change in the warning may create more awareness of the dangers of smoking, and more smokers will want to stop smoking. Programs to assist those who want to quit smoking will be needed even more in that case.

CONCLUSION

The AMA supports efforts to increase public awareness of the hazards of smoking. We believe that the best method to decrease smoking is to help people avoid starting the habit. One method to discourage smoking would be a clear indication of the

health hazards of smoking. Thus, the AMA supports a more explicit warning on cigarette packages and in advertisements.

AMERICAN ACADEMY OF PEDIATRICS,
Evanston, Ill., February 9, 1982.

Hon. BOB PACKWOOD,
Hon. ORRIN G. HATCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD AND SENATOR HATCH: On behalf of the American Academy of Pediatrics I am pleased to support S. 1929, the Comprehensive Smoking Prevention Education Act.

The human health consequences of cigarette smoking have been studied more thoroughly than those of any other environmental exposure. As was noted in the 1979 Surgeon General's Report, "Smoking and Health," specific mortality ratios are directly proportional to the years of cigarette smoking, and are higher for persons who started smoking at younger ages. As your legislation indicates, smoking contributes to mortality from lung cancer, cardiovascular disease and increases the risk of cancer from exposure to other carcinogens. Birth weight and fetal growth are also adversely affected by smoking during pregnancy.

Thus it is particularly alarming to pediatricians that despite our efforts to educate young patients about the dangers of smoking, the incidence of cigarette smoking is actually increasing among adolescent females, and has not decreased in young males.

The Academy applauds your initiative to combat this escalating problem and looks forward to assisting in whatever way you see fit.

Sincerely yours,

GLENN AUSTIN, M.D.

AMERICAN ACADEMY OF OTOLARYNGOLOGY—HEAD & NECK SURGERY, INC.,
Washington, D.C., February 10, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, D.C.

DEAR SENATOR PACKWOOD: I'm pleased to report that at its most recent meeting, the Board of Directors of the American Academy of Otolaryngology—Head and Neck Surgery, Inc. voted to support Senate Bill 1929 which would amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the American public of information on the health consequences of smoking. This support is particularly appropriate inasmuch as the members of the American Academy of Otolaryngology are those medical specialists who have primary responsibility and expertise in the diseases of the mouth, throat and appendages of the upper airway. Many of the lethal consequences of smoking tobacco appear first in the head and neck region. We thus have an enormous experience with these difficult and tragic problems. I am pleased to report this action to you.

Very sincerely yours,

HARRY W. MCCURDY, M.D.,
Executive Vice President.

CALIFORNIANS FOR NONSMOKERS' RIGHTS,
Berkeley, Calif., February 12, 1982.

Hon. BOB PACKWOOD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: On behalf of Californians for Nonsmokers' Rights, I would like to thank you for introducing S. 1929.

Californians for Nonsmokers' Rights is an organization with more than 25,000 contributors that grew from the two recent initiative campaigns on the question of smoking in public places. We are continuing to work on issues relating to nonsmokers' rights in particular and smoking and health in general through the political process at all levels in California.

Since it bears so directly on your bill, I am enclosing, for your information, a copy of a letter I recently sent to the Federal Trade Commission endorsing the conclusions and recommendations in their "Staff Report on the Cigarette Advertising Investigation." I am also enclosing letters from faculty of the U.C. San Francisco and Stanford Medical Schools that attest to the strength of the conclusions in this report.

The only change we suggest in your bill is that the system of rotational warnings be expanded to include one or more warnings to educate the public that smoking harms nonsmokers as well as smokers, such as

WARNING: Your smoke hurts people with heart disease
WARNING: Your smoke hurts nonsmokers
WARNING: Your smoke hurts your children
WARNING: Nonsmokers inhale poisons from your smoke

My letter to the FTC outlines the rationale for these suggestions in more detail.

Although our organization is primarly concerned with local and state-wide legislation in California, we were pleased to see that you introduced S. 1929. I am also writing to Senators Cranston and Hayakawa asking that they support your bill. If we can do anything else to help secure its passage, please let me know.

Sincerely yours,

STANTON A. GLANTZ, PH. D., *Treasurer.*

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, D.C., February 18, 1982.

Hon. BOB PACKWOOD,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: The American Public Health Association is pleased to support S. 1929, the Comprehensive Smoking Prevention Education Act.

APHA recognizes the health hazards associated with smoking and has over the years participated in efforts to discourage and eliminate smoking. Internally, the association accepts no tobacco advertising in its publications, holds no investments in firms which have a major interest in tobacco products, and allows no smoking at any of its meetings or public functions.

In our recent comments in response to the Federal Trade Commission's Staff Report on the Cigarette Advertising Investigation, we concurred with their findings that the public needs additional information about the health hazards of smoking. We agree that the current health warning is no longer effective. APHA supports your proposal to change the size and shape of warnings on cigarette advertising and packaging and to provide rotational warnings.

We feel S. 1929 is an important step toward increasing public knowledge about the adverse health effects of smoking. We look forward to working with you and your staff in support of this legislation.

Very truly yours,

STANLEY J. MATEK, MS, *President.*

AMERICAN COLLEGE OF PREVENTIVE MEDICINE,
Washington, D.C., February 18, 1982.

Hon. BOB PACKWOOD,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: I am writing to express the endorsement of the American College of Preventive Medicine of S. 1929, a bill you have introduced together with Senator Hatch which would help to provide information to the American people on the dangers of cigarette smoking.

By anyone's estimate, the annual cost of cigarette smoking to society and to individuals is enormous. Yet, a great many smokers are only vaguely aware of the consequences. The decision to smoke is one that an individual has a right to make—in order to rationally make that decision, however, consumers must be provided additional information on the known hazards of the habit. Once given that information they will be better able to exercise their freedom of choice.

S. 1929 goes a long way in providing balanced information to those who may be unknowingly exposing themselves to trememdous hazards. We are, therefore, pleased to lend our support to this legislation.

Sincerely,

JEFFERSON C. DAVIS, M.D., *President.*

ASSOCIATION OF TEACHERS OF PREVENTIVE MEDICINE,
Washington, D.C., February 25, 1982.

Hon. BOB PACKWOOD,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: I am writing on behalf of our organization to express our endorsement of S. 1929, a bill you have introduced which would change current labeling requirements for cigarettes and would make certain program changes within HHS to enhance the Department's anti-smoking efforts.

As the Surgeon General just this week reported, the dangers from smoking are far more extensive than we realized just a few short years ago. The concomitant health care costs associated with smoking are equally staggering. For these and other reasons, American consumers must be provided with far more facts than they currently are regarding the hazards of this habit. Your bill would make a substantial contribution in providing consumers with vital information they need in exercising their freedom of choice to smoke or not to smoke.

We are pleased to lend our support to this legislation aimed at ultimately curtailing the "chief preventable cause of death" in this country.

Sincerely,

F. DOUGLAS SCUTCHFIELD, M.D., *President.*

AMERICAN CANCER SOCIETY, INC.,
New York, N.Y., February 26, 1982.

Hon. BOB PACKWOOD,
Chairman, Commerce, Committee,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR PACKWOOD: The American Cancer Society, the world's largest voluntary health organization with over 2 million active volunteers in the United States, strongly endorses the basic purposes and provisions of S. 1929, The Comprehensive Smoking Prevention Education Act of 1981, and urges its early consideration and passage by the Commerce Committee and by the full Senate.

Over 300,000 preventable deaths occur each year in this country because of cigarette smoking. Smoking is responsible for millions of hours of lost productivity costing our economy over $25 billion a year. It is a major cause of lung, larynx, oral cavity and bladder cancer.

A recent FTC study shows that despite efforts at education, the majority of our fellow citizens are basically unaware of the dangers of smoking. Education to the hazards of cigarette smoking, especially education efforts aimed at our young people who have not yet started to smoke are, therefore, vitally important. S. 1929 would take us a long way toward a coordinated, intensive effort at educating the American consumer to the actual dangers of smoking.

While some would question the efficacy of warning labels, the FTC staff report made it very clear that not enough information was getting to the public about the dangers of smoking. The sections of S. 1929 which provide for five rotating warning labels on all cigarette brands, labels which very specifically spell out the health hazards of smoking could well be the answer to this problem and must be tried.

The Society is particularly pleased that S. 1929 contains a provision requiring listing with the Secretary of Health and Human Services of all additives in each brand of cigarettes.

Such a requirement could give scientists the opportunity to study the effects of burning and inhaling such additives on the health of cigarette smokers while still providing the tobacco industry with protection against revelation of trade secrets regarding quantities and types of these flavorings.

While ACS is in basic accord with most of the provisions of S. 1929, we would prefer to see a formal Office of Smoking and Health as part of this package and we urge you and members of your Committee to consider such an amendment to the legislation.

We wish to commend you for your leadership and foresight in offering S. 1929 and to thank you for your commitment to use education and research as a tool to reduce the national smoking habit thereby greatly reducing the number of preventable cancer deaths each year.

The American Cancer Society considers passage into public law of S. 1929 to be a major legislative priority. Therefore, if we can be of any assistance to you during the consideration of this legislation please do not hesitate to call upon us.

Sincerely,

ROBERT V. P. HUTTER, M.D., *President.*

AMERICAN NURSES' ASSOCIATION, INC.,
Kansas City, Mo., March 16, 1982.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: The American Nurses' Association applauds your action in sponsoring S1929, the Comprehensive Smoking Education Act of 1981. This bill is an important step in strengthening the federal and private sector educational activities of one of the major public health problems in the U.S.—Cigarette smoking.

The American Nurses' Association, as the professional organization of the largest group of health care providers, most of whom are women, are especially concerned about the alarming increases in smoking among young women. We encorage nurses to become informed about the health hazards of smoking and to be acutely involved in health education programs, particularly those to prevent the young from becoming smokers.

The increased labeling requirement for cigarettes, as outlined in your bill, can help to meet the need for increased public awareness of the devastating effects of cigarette smoking. With increased knowledge of the hazards of smoking, the consumer can make a more informed decision whether to smoke or not smoke.

The enactment of S1929 will provide a much needed impetus to preventive health programs and stimulate new efforts to foster public awareness of the danger of smoking.

We look forward to working with you on your smoking prevention effort. If we can be of further help to you, the staff of our Washington Office will be happy to assist you.

Sincerely,

PATRICIA A. JONES,
Deputy Executive Director.

STATE OF CONNECTICUT,
DEPARTMENT OF HEALTH SERVICES,
Hartford, Conn., March 26, 1982.

Hon. BOB PACKWOOD,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: On behalf of the Association of State and Territorial Health Officials (ASTHO), I am writing in support of the provisions of S–1929. The issue of tobacco smoking and its health and social consequences must be addressed as a national problem. The results of tobacco useage in our country are tragic and in most cases preventable.

This bill is important and worthy of support for a number of reasons. The most important being that it is a comprehensive smoking prevention package. The bill has several major components that should be commented on:

1. It would establish an Interagency Committee on Smoking and Health. This provision makes good sense due to the complexity of the problem. It would enable more agencies and organizations to remain up to date on the issues and the current state of the art in prevention.

2. It would require the Surgeon General to transmit an annula report to Congess. Reports of this nature are extremely important and often are considered benchmarks of progress, as in the case of the 1964 report on Smoking and Health.

3. It would require cigarette companies to place health warning messages on each pack of cigarettes. I strongly support the rotating health message provision. The current health warnings on cigarette packages are not as effective as they could be.

I believe that expanded educational efforts must take place and a system of rotating message should be undertaken.

A recent survey taken in the State of Connecticut indicated that 88 percent of random samples of 500 state residents knew that smoking was harmful to health. Only 38 percent, however, recognized that smoking was a major risk factor for heart disease, which is the leading cause of death in Connecticut and the nation.

Research has indicated that people will take preventive health actions when they perceive a problem as severe, consider themselves susceptible, and acknowledge a benefit from a remedial action recommended (Becker, 1974 [1]). The strengthen labelling provisions address all of the necessary steps in the initiation of behavior change.

Finally, tobacco smoking is the number one public health problem in America. It is clearly the largest preventable cause of death in this country. This issue must be addressed as a national problem. S–1929 addresses the topic at the national level and is a comprehensive well thought out approach.

I urge the committee and the Congress to support the bill.

Sincerely,

DOUGLAS S. LLOYD, M.D., M.P.H.,
Commissioner.

FEDERAL TRADE COMMISSION,
Washington, D.C., April 7, 1982

Hon. HOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter responds to your request for cost data regarding a rotational warning system in cigarette advertising. During the Federal Trade Commission's cigarette advertising investigation, we worked closely with an advertising agency, Keenan & McLaughlin, Inc., to understand how cigarette advertising is created. We were concerned with how—and at what cost—rotating the health warning in cigarette ads would affect the way in which cigarettes are advertised. Using information from Keenan & McLaughlin and a number of assumptions that I will spell out in this letter, we have concluded that the quantifiable total annual costs of a rotational warning system would probably be less than $1 million.

Before discussing actual figures, I need o explain briefly how cigarette ads are produced. Most cigarette ads are printed. The advertiser designs an ad and creates a "mechanical," which contains all the artwork in the ad, including the warning. The "mechanical" serves as the basis for production material used in printing newspaper and magazine ads, outdoor and transit posters, and point-of-purchase and promotional materials. The particulars vary by media, but not the basic process. In newspapers and magazines, the advertiser prepares an initial set of production materials for each advertisement and duplicates for all of the publications in which the ad will appear.

The costs of changing a warning message vary according to when in the production process the change occurs. If the advertiser has to change warnings only when new ads are introduced, the increased production costs from rotational warnings would be trivial. Costs are greater if changes in the warning must be incorporated into advertising that is already produced. When there is a change only in the message, without changing the size or shape of the warning, the cost is low.[a]

The message can be changed by usng "patches" for the artwork containing the warning message without affecting the rest of the advertisement. In newspapers and magazines, when the advertiser creates the patchwork, there is a higher cost for the first set of meterials and a lower cost for the duplicate artwork. Separate artwork must be sent to each publication in which an ad with a changed warning appears.

In newspapers and most magazines, if the advertisement runs for longer than the designated rotational period, then the cost of changing just the message within the current rectangle is $150 for the first set of production materials and $40 for each duplicate. In those few newspaper supplements and magazines that use a slightly

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[1] Becker, M., ed. The Health Belief Model and Personal Health Behavior. Health Education Monographs, (2) 1974, 324–473.

[a] Our cost estimates assume that the size and shape of the warning do not change. If such changes are required, the entire advertisement, and not just the message within the rectangle, would be affected. It would cost between $600 and $4500 to make such a change in an existing ad. If a change in the warning's format were phased in with new advertising, however, increases in production costs would be trivial.

different and more expensive process known as rotogravure, the respective costs are $245 and $60. It should be reemphasized here that if the warning is incorporated into new advertising as it is produced, increases in producition costs would be trivial.

Our estimate of the total production costs of a change in the warning is based on the levels of cigarette advertising dollars in each medium and on reasonable assumptions about the number of ads that would have to be changed at any one time. For magazines, the production cost per change is approximately $29,000.[2] For newspapers, the estimate is $31,000.[3] Because newspaper supplements commonly use the more expensive rotogravure process, it would cost proportionally more to change the message in that medium. Our rough estimate of the total cost per change if $9,000.[4] Our estimate of the total per change cost for changing the warning in all of the print media, therefore, is $69,000.

In most of the poster media (printed billboards and transit posters), there would be no appreciable increased production costs. Such posters are routinely changed monthly. To change the warning message, the printer would merely change that small segment of the artwork with the warning and produce posters with the new language. Thus, changes in the warning could be incorporated into new printing runs at an insignificant extra cost. In calculating the total production cost—using a generous overestimate of the total number of poster and transit ads that would have to be changed at any one time—we concluded that the maximum such a change could cost would be $16,000.[5]

Painted billboards would be much more expensive to change. These billboards, known as bulletins, are designed to last for a year. If the warning had to be changed during that year, a painter would have to travel to the site to paint on new language. Although we do not have precise estimates, these costs could be substantial. A system which required a new warning to be placed on each billboard when it is painted would impose no increased costs. On the assumption that such a system would be the one adopted, we have made no allowance for costs of changing existing painted billboards.

Flexibility is also the key to holding down the production costs for point-of-sale and other promotional materials. These items have an indefinite useful life. There would be much waste from requiring rotational warnings on these materials. Instead, if the language of the warning were to be determined by the date the item was ordered, eventually all of the messages would appear and production costs would increase only trivially.

In addition to production costs, the administrative costs of cigarette advertising with rotating warnings would be higher for the cigarette manufacturers and their advertising agencies because of the need for increased monitoring to ensure compliance with whatever rotational system is adopted. It is difficult to estimate how great this cost would be. The advertising agency that staff consulted estimated the total administrative cost of monitoring a change in message to be $545 for a specific advertisement (regardless of the number of publications in which it appeared). Presumably this figure, which the ad agency believed to be on the high side, would de-

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[2] We calculated that figure as follows. We know from Leading National Advertisers (LNA) that $287 million were spent on magazine cigarette ads in 1980. We also know from that same source that twenty-three magazines accounted for $250 million of that total. By taking a random sample of eleven of those twenty-three magazines and counting the number of cigarette ads in each, we concluded that there were an average of eight ads per magazine per issue. Multiplying the number of ads by the costs of changing one ad gives an estimate of $27,600 for changing each ad in these 23 magazines, or about .01 percent of total cigarette advertising in these 23 magazines. Applying this percentage to all magazine advertising results in the $29,000 estimate.

Given the order of magnitude of the estimate, the fact that it is somewhat rough is not troubling. First, our figure is an overestimation. For purposes of calculation, we treated every ad as distinct. In reality, of course, at any one time many ads are duplicates. Also, some ads are probably new. The cost of changing a duplicate is only one-third the cost of changing an original. The cost of a change in a new ad is zero. Thus, the figure is probably an overestimation.

[3] LNA indicates that $310 million were spent in newspapers. Given the similarity between the media, in technology and in ease of alteration, we assumed that the percentage of total advertising dollars that would go into changing the warning would be roughly the same. To obtain a newspaper estimation, we multiplied $310 million by .01 percent.

[4] LNA figures for newspaper supplements total $56 million. To account for the more expensive process, the coefficient used was .0163 percent rather than .01 percent. This represents the proportional difference between $150 and $245.

[5] The figures used in this calculation are rough, but because we consciously overestimated, they are unlikely to be too low. We assumed that there would never be more than 400 separate ads (an average of two for each of the 200 varieties of cigarettes tested by the FTC), and we multiplied 400 by $40, the cost of changing the artwork for each ad.

crease over time as the industry became more familiar with the system. We estimate that the maximum (and what we feel to be a significant overestimation) amount that would be spent in administering one change in message is $218,000.[6]

Thus, the total quantifiable costs, in both production and administration, of a rotational warning system would be no more than $303,000 per change. If there were only one change required annually, the annual cost to the cigarette industry would be about $300,000. If the warnings were changed each quarter the maximum cost to the cigarette industry would be $1.2 million. As noted above, given sufficient flexibility the actual costs should be much lower. Expressed as a percentage of cigarette advertising expenditures, the costs of a rotational warning would vary between .03 percent and .1 percent of annual advertising dollars depending upon the number of times the warning is changed.[7] Quarterly changes in the warning would therefore cost less than four thousandths of a cent (.004 cent) per pack.

If you have any additional questions, please do not hesitate to contact me.

Sincerely yours,

TIMOTHY J. MURIS, *Director.*

UNIVERSITY OF CALIFORNIA, SAN FRANCISCO,
San Francisco, Calif., April 27, 1982.

Dear Sirs: This statement is written to call attention to the importance of S.B. 1929, the Comprehensive Smoking Education Act, to the health of American women.

I am a cancer epidemiologist on the faculty of the School of Medicine at the University of California, San Francisco. Through my work I am familiar with the current statistics that show an epidemic of smoking-related diseases among women in the United States. It is expected that lung cancer will soon surpass breast cancer as the number one cause of female cancer deaths. This trend is almost entirely due to cigarette smoking. It is not only lung cancer that increased dramatically among smokers compared to non-smokers, but also cancers of the larynx, esophagus, kidney, bladder, and pancreas. Other nonmalignant but frequently fatal conditions are more common in smokers, including heart disease, emphysema, and arteriosclerotic peripheral vascular disease. These risks are, of course, shared with men, but smoking poses unique risks for women because it is they who become pregnant and use oral contraceptives. Pregnant women who smoke have a greater likelihood of having spontaneous abortions, of having babies born prematurely or of lower birthweights, and of having offspring who die in the perinatal period than do pregnant women who do not smoke. Paticularly among women 35 years of age and older, oral contraceptive use is contraindicated in smokers based on their excessive mortality.

Ironically, cigarette advertising directed at women has grown in inverse proportion to the weight of the medical evidence regarding the health hazards of smoking. One of my research projects involves an examination of trends in cigarette advertising in leading women's magazines since the 1930s. By its own admission, the cigarette industry has recently focused on women as a vulnerable group for its ad campaigns. In a front-page article entitled "Women Top Cig Target," Advertising Age of September 28, 1981, quotes Gerald H. Long, president and chief executive officer of R.J. Reynolds Tobacco Company; he describes the women's market as "probably the largest opportunity for Reynolds."

In 1981, approximately $64 million was spent on cigarette advertising in seven of the eight major women's magazines alone, ranging from 11 to 16 pages per issue.

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[6] This figure was derived by multiplying $545 times our estimate of 400 separate ads at any one time. The figure is high for two reasons. First, there are probably not that many different ads. And second, the cost probably would not increase by $545 for each ad. The estimate is based upon the amount of time it would take various people at the company and the advertising agency to monitor the new system. The minimum time for each task was calculated as one hour. If it took one hour to check a schedule for one ad (an overestimate), then it surely would not take two hours to check two ads or four hours to check four ads. Finally, the total amount spent in administration is a function of the rigidity of the system. A flexible approach to rotation would keep the administrative costs to a minimum.

[7] There are, however, other costs to a rotational system that are impossible to quantify. The rotational warnings, to the extent that they occupy the reader's attention more than the current warning, will distract attention from the advertiser's brand message. Whatever this cost is, it cannot be quantified. There is also the potential cost of forcing the cigarette advertiser to consider more factors in designing media and advertising plans.

Finally, there is some increase in the cost of rotating messages on packages. Having no jurisdiction over packages, we did not ask our consultants for any information on their costs. We have every reason to believe that the costs will also be small, particularly if flexibility is allowed.

(Only one of these eight top women's publications, Good Housekeeping, refuses to accept cigarette ads.) The models featured in these promotions are young, attractive, athletic, and independent in style. The tens of millions of women who choose to read these magazines for their articles on childcare, crafts, food preparation, health, fashion, and home improvement must turn page after page of cigarette promotions, whose positive support for smoking is in sharp contrast to the clearly negative medical consequences of cigarette use.

This winter R.J. Reynold's sponsored women's fashion events in 18 major shopping centers around the United States. At these events, publicity for their "More" brand of cigarettes included free shopping bags designed like the cigarette package, fliers featuring models with cigarettes in hand, and raffles with the prize-winning drawn from an oversized replica of a cigarette package.

A talk I give to the public on this subject is billed: "Mixed Messages for Women: Cigarette Advertising and the Health Risks of Smoking." Not only as a scientist but as a female consumer, I am dismayed by the imbalance between the laviah and ubiquitous expenditures on the part of the tobacco industry to promote cigarettes and the relatively small amounts of money available to health agencies to adequately broadcast the dangers of cigarette smoking.

S.B. 1929 is of particular importance to the health of American women because two of the proposed cigarette package warnings deal with the special dangers cigarette smoking poses to women of reproductive age, i.e.,

Warning: Cigarette smoking by pregnant women may result in birth defects or spontaneous abortion.

Warning: The Surgeon General has determined that cigarette smoking by pregnant women may result in miscarriage, premature births or child weight deficiencies.

My seven-year-old daughter knows not to use cigarette ads for any school projects that require magazine cut-outs, explaining "They wanna make you think cigarettes will make you beautiful but they really just wanna make money; those ads are dumb because cigarettes make you die." I wish all children—and adults—were similarly aware. The Comprehensive Smoking Education Act is a step in that direction. I urge its passage.

Sincerely,

VIRGINIA L. ERNSTER, PH. D.,
Assistant Professor of Epidemiology.

N W AYER INC.,
New York, N.Y., May 4, 1982.

SENATOR BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation,
Washington, D.C.

DEAR MR. CHAIRMAN: Please enter the following statement into the Senate Hearing Record:

As Vice Chairman and Worldwide Creative Director of N W Ayer Incorporated, the oldest advertising agency in the United States and amongst the largest in the world, I vehemently protest the introduction, consideration and possible passage of Senate Bill (S. 1929) entitled "The Public Health Service Act and the Federal Cigarette Labeling and Advertising Act," introduced by Senators Orrin Hatch and Bob Packwood.

It is our firm, considered opinion that such legislation would be harmful to the advertising industry, industry in general, the economy and the pocketbook of the American taxpayer. In addition, it would create precedent which could result in further harm to all the above interests if applied to other sectors of business, the economy and advertising.

The regulatory, knee-jerk attitude towards industry exhibited by the proposed legislation could have a highly negative effect on advertising and industry if extended to other sectors of the American business community. Such extension could well involve unconstitutional infringement of the 1st and 14th Amendments.

It is very important for the welfare of the United States, both socially and economically, that commercial speech and due process and fair and equal treatment of the laws be preserved and be applied even-handedly. With this kind of legislation we run severe risks that these treasured and inalienable rights will be diluted or emasculated.

When we pass special legislation designed to have a negative effect on one industry such as the cigarette industry, which manufactures a lawful product, and is le-

gally advertised and distributed in our country, we open ourselves to the pressures of every parochial, special interest group in the United States. If the precedent is set for cigarettes then it can easily be extended to products containing dairy ingredients and diet foods, to name just a few of many. We cannot and should not allow this to happen, for the good of the public as a whole.

At a time when a concerned effort is being made by both Democrats and Republicans to reduce the burden of government, reduce bureaucracy, deregulate industry, create efficiency, reduce government costs and make American industry more productive and competitive on a worldwide basis, these proposed bills would have the opposite effect without the necessary redeeming values or benefits. In net result, the proposed legislation in its most favored light, creates more harm than good for America as a whole and creates a dangerous and uncalled for precedent.

But beyond that, we have the following additional objections to the proposed legislation:

1. There is no conclusive scientific evidence for the health-related Congressional "Findings" upon which the bill is predicated. Such "Findings" are essentially a rehash of charges made against cigarette smoking by the anti-smoking lobby without qualification or presentation of balanced or contra-scientific evidence.

2. More bureaucracy and concomitant burdens would be created at a time when we are trying to do the opposite.

3. The proposed rotating schedule of health warnings would add to the cost of cigarettes and further fuel inflation without a reasonable or verified benefit to the public. There is no evidence that the present warning notice on cigarettes is inadequate or ineffective in conveying to the consumer the potential dangers of smoking.

4. Litigation is encouraged in the private sector which would appear to be redundant and which would further clog our court calendars. This would also create a financial burden on the economy without any apparent or countervailing benefits.

5. Advertisements are sales messages, not educational vehicles and are inappropriate for carrying anti-product messages.

6. The requirement that cigarettes to be exported carry a warning statement creates a harmful precedent. It unduly penalizes American industry and makes it less competitive overseas both immediately vis a vis the cigarette industry and potentially as such thinking is applied to other sectors of American industry.

7. The Senate bill requirement that cigarette manufacturers provide the Federal Trade Commission and the Department of Health and Human Services with a full list of each chemical additive and the quantity thereof in cigarettes violates the confidentiality and trade secret aspects of individual cigarette manufacturers without any compensating public benefit. We do not believe that once such information is provided to the government agencies that there is any way the information can, from a practical point of view, be protected from public disclosure.

In conclusion, for the reasons stated, we believe the proposed legislation in the Senate to be harmful to the general public and to industry (not just the cigarette industry), creating burdens and precedents that cannot be justified today.

We respectively urge that the proposed Senate bill not go forward.

Cordially,

JERRY SIANO,
Vice Chairman and Creative Director Worldwide.

MELDRUM & FEWSMITH, INC.,
Cleveland, Ohio, May 11, 1982.

Senator BOB PACKWOOD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: I understand that the Senate Commerce Committee hearings on S. 1929, The Federal Cigarette Labeling and Advertising Act commenced on May 10 in Washington.

I am enclosing an article, by-lined by this writer, which appeared on the OP-ED page of The Plain Dealer, Saturday, May 8, 1982. I'd like this "Advertisers' rights are on the line" added to the testimony of The Senate Commerce Committee hearings on this bill.

None of us wish to encourage any non-smoker to take up smoking. I am convinced, however, that this current legislation is tilting at windmills. There is no evidence from any direction that rotating labels or any other restriction on advertising will produce the desired result. On the contrary, there is lots of evidence that such restrictions retard switching to low tar brands and then there is the hidden free-

market threat of restrictions on advertising for other product categories. European experiences certainly supports this potential.

We simply cannot let high emotion over this cigarette/health issue endanger the right to advertise products that are legal to sell.

Sincerely,

ARTHUR E. EARLEY,
Chairman/Chief Executive Officer.

THE AMERICAN COLLEGE OF
OBSTETRICIANS & GYNECOLOGISTS,
May 12, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation,
Washington, D.C.

DEAR CHAIRMAN PACKWOOD: The American College of Obstetricians and Gynecologists takes this opportunity to comment on your efforts to increase public knowledge of the potential and serious health hazards associated with cigarette smoking. Representing over 23,000 practicing obstetricians and gynecologists who care for a significant proportion of the smoking population, the ACOG is very concerned about the harmful effects of smoking on both women and their offspring.

A pregnant woman who smokes 20 cigarettes a day will inhale tobacco smoke upwards of 11,000 times during an average gestation and may spend 10 percent of her waking day smoking. Scientific evidence indicates that smoking in pregnancy increases the risk of fetal death or damage in utero and predisposes the mother to increased risk of pregnancy-related complications. In light of similar findings by the 1982 Surgeon General's Report on Smoking and the FTC staff report that indicates an increasing number of women and teenage girls begin and continue to smoke without adequate knowledge of the risks they bring to themselves and their offspring, the ACOG endorses the concept of rotational label warnings as proposed in S. 1929.

Printed warning statements on cigarette packages and advertisements constitute only one aspect of the public health campaign that must be waged if we are to successfully educate the public. Our efforts must also be specifically targeted at the teenage population who are susceptible to peer pressure and the attractive role models so often found in cigarette advertising. In addition, more research and programs are needed to help those who choose to stop smoking to do so before they encounter a serious medical experience that mandates that they quit or face a life-threatng debilitating illness.

In short, concerned individuals and groups—whether in the public or private sector—have a responsibility to do all that is possible and necessary to successfully reduce the nation's smoking habit and prevent young people from falling victim to the serious, preventable health hazards of smoking.

Sincerely,

ERVIN E. NICHOLS, M.D., FACOG,
Director, Practice Activities.

CONFERENCE OF STATE AND TERRITORIAL DIRECTORS
OF PUBLIC HEALTH EDUCATION,
May 17, 1982.

Hon. BOB PACKWOOD,
Chairman, Senate Commerce, Science, and Transportation Committee,
Washington, D.C.

DEAR SENATOR PACKWOOD: On behalf of the Conference of State and Territorial Directors of Public Health Education and with the enforsement of the Association of State and Territorial Health Officials, I write in support of S. 1929, the Comprehensive Smoking Prevention Education Act.

Tobacco smoking is a major public health problem in the United States. Significant efforts are necessary to ensure that Americans are properly informed about the health hazards of smoking to assist them in making their personal decisions about smoking behavior. The CSTDPHE believes that rotating product warning labels will contribute to this educational effort for several reasons.

Warning labels on cigarette packages provide a mechanism for communicating directly with consumers and their families and, therefore, contribute to the consumers' information base. Labels with varying health messages may provide a deterrent

to children considering smoking cigarettes. It is also possible that children will use label information in their efforts to influence their parents' behavior.

In light of the consequences, every channel available to convey the hazards of smoking should be used. The proposed labeling will convey a hazard warning that is repeated and reinforced in the face of continuous advertising which presents smoking as glamorous and rewarding. Rotating label messages and the format in which they are displayed is a means of stimulating and reinforcing consumer interest in those messages. This is a successful technique used in product advertising which should also be applied to product safety.

In reviewing the proposed messages it is felt that Message (E) "Smokers: No Matter How Long You Have Smoked, Quitting Now Greatly Reduces the Risks to Your Health" is a powerfully positive message. It does not rely on a "scare" or "disease" approach to stimulate interest but provides instead a message that positive action will have positive results.

Message (A) "Cigarette Smoking is Dangerous to Your Health. For Information on the Specific Health Consequences of Smoking, Write: Surgeon General, U.S. Public Health Service, Washington, D.C. 20201" is strong too since it provides the consumer with an easily accessible means for securing information. However, given the reading level of the population as a whole, the phrase "Specific Health Consequences of Smoking" might be rephrased "Hazards of Smoking" with no real loss of intent. Message (D) might also be rephrased to make the meaning of "Child Weight Deficiencies" easier to understand, i.e. "babies born too small."

In summary, the CSTDPHE, with the endorsement of the ASTHO, supports the use of rotating warning labels on cigarettes for the purpose of promoting informed decision making, and to meet, in some small way, the government's responsibility to inform the public about a known health hazard. The fact that the government subsidizes the growth of the tobacco used in cigarettes is in itself a compelling argument for supporting every possible means of providing information on the health consequences of smoking and education programs for smoking prevention and smoking cessation.

Sincerely yours,

ZORA SALISBURY, ED.D., *President.*

NATIONAL NEWSPAPER ASSOCIATION,
June 2, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The National Newspaper Association appreciates the opportunity to submit a statement for the record concerning S. 1929, the Comprehensive Smoking Prevention Education Act of 1981. NNA is a non-profit trade association consisting of more than 5,000 weekly and daily community newspapers located throughout the United States. Our members are concerned with legislative initiatives which may have an impact on any aspect of the First Amendment, including commercial speech.

Mr. Chairman, NNA is concerned with the advertising requirements prescribed in section 4(a) of this bill from several standpoints. Primarily, we believe that mandating such a pervasive regulatory scheme raises some constitutionally troubling questions. We also believe that a statutorily imposed labelling system carries with it an implicit statement of public policy that cigarette advertising is deceptive per se, a view with which we do not agree. Finally, we question whether the available evidence demonstrates that new and additional warnings are necessary as a matter of practical effectiveness.

Section 4(a) would require five new specific warnings to be placed on cigarette advertising and rotated equally during successive fifteen-month periods. The clear trend over the past decade in Supreme Court decisions concerning commerical speech has been to increasingly limit the powers of government to intrude upon commercial speech rights.[1] While not accorded all the protection of non-commercial speech, nonetheless the government is required to show a compelling need for its intrusion as well as that that intrusion is minimal and not overly broad.

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[1] *Bigelow* v. *Virginia*, 421 U.S. 809 (1975); *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council*, 425 U.S. 748 (1976); *Bates* v. *State Bar of Arizona*, 433 U.S. 350 (1979), *Central Hudson and Electric Corporation* v. *Public Service Commission of New York*, 477 U.S. 557 (1980) and *In Re R.M.J.*, 50 U.S.L.W. 4185, ——— U.S. ——— (1982).

In *Central Hudson and Electric Corporation*, v. *Public Service Commission of New York*, 447 U.S. 557, 566 (1980), the court set out a four-part test for determining when government may regulate commercial speech:

"In commercial speech cases, then, a four-part analysis has developed. At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted and whether it is not more extensive than is necessary to serve that interest."

Applying this analysis to S. 1929, it is apparent that the advertising of cigarettes is lawful and that it is not misleading. Thus, it is protected by the First Amendment. NNA, of course, agrees that the government's interest in this situation, the public's health, is substantial. With positive responses to the first two inquiries, the focus shifts to the last two parts of the test, which we believe S. 1929 may have trouble satisfying.

First, with respect to whether the five new rotated warnings will "directly advance the governmental interest asserted," we submit that this is open to considerable doubt and argument. There has been an explicit health warning required on most cigarette advertising for approximately a decade. There has also been an extensive educational process about the dangers of smoking. To what extent has it been proven that the new warnings would significantly improve the public's awareness of smoking's hazards? Presumably, the current warning has already enhanced directly the government's public health interest. In our opinion, then, evidence of a most significant improvement upon the current warning's effectiveness must be shown in order to establish that the new warnings would incrementally directly advance the public health interest. If the effectiveness would be merely comparable, then one method will merely have been substituted for another with no measurable gain for the government's interest, and hence, no advance.

The question of effectiveness really spills over into the last part of the Supreme Court's test which deals with overbreadth. If the effectiveness of the five new warnings is not significantly greater than the current warning, then Congress will have imposed a regulatory scheme far broader than is necessary or justified. Absent evidence showing that enhancement of effectiveness, then, the system of five new warnings would seem to be more extensive than is necessary to serve the interests of public health.

Aside from the constitutional considerations, NNA is concerned with congressional subscription to the thesis that cigarette advertising is *per se* deceptive. The Federal Trade Commission staff in its report on cigarette advertising advocates a theory of deception by omission.[2] However, this appears to fly in the face of the fact that there is a clear and conspicious health warning already in most cigarette advertisings. Moreover, while there are some contrary trends in some specific categorical areas of smokers, the overall percentage of the populace smoking declined from 42 to 33 percent between 1964 and 1978.[3] This can hardly be the result of deception, by omission or otherwise, as to health risks in smoking. It must raise questions as to the wisdom of establishing a public policy which effectively characterizes cigarette smoking as per se deceptive.

NNA urges you and your committee, Mr. Chairman, to carefully look at the underlying statisitcal data as to whether the rotational system of five new warnings truly is more effective than the current single warning. Moreover, we would urge you to look carefully to see whether there even is room left for substantial improvement. Perhaps further studies or surveys may be necessary to acquire this information.

In sum, Mr. Chairman, NNA is concerned that Congress is considering imposing commercial speech requirements upon a lawful activity when the record may not necessarily be adequate to justify such intrusion. We urge you to move cautiously and deliberately before you impose requirements that will have an adverse impact upon the rights of advertisers of cigarettes.

Thank you for considering our comments.

Respectfully submitted.

W. MELVIN STREET,
Executive Vice President.

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[2] FTC Staff Report on Cigarette Advertising at 4–17, *et seq.*
[3] *Id.* at 1–3.

UNITED STATES GENERAL ACCOUNTING OFFICE,
Washington, D.C., June 4, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate.

DEAR MR. CHAIRMAN: As requested by your office on April 14, 1982, I am submitting for the record the result of our review of (1) an FTC-commissioned report entitled "Cigarette Warning Project," dated May 1981, prepared under contract to FTC by the advertising firm of Keenan and McLaughlin, Inc.; and (2) a letter addressed to you from FTC's Bureau of Consumer Protection dated April 7, 1982, that contains their estimate of the annual compliance costs associated with a newly proposed health warning regulation for cigarette advertisements.

Both items were developed in response to proposed legislation (S. 1929) that would require all cigarette packages and advertisements to display one of five possible warning messages. Furthermore, it would require that each brand rotate the messages on its packages and advertisements within a 15-month period. Also, the Senate bill would require FTC to establish regulations that would ensure the effective operation of the rotational health warning information system.

The Keenan and McLaughlin report provided FTC with estimates of the increase in production costs, by media type and reproduction process, caused by replacing only the health warning message in a continuing cigarette advertisement. Additionally, they estimated the hourly administrative costs imposed on cigarette companies and advertising agencies arising from monitoring these changes in health warning messages. Although we did not conduct an audit of the basic cost data contained in the estimates, the detailed itemizing of costs, the variety of media formats considered, and the contractor's firsthand knowledge of advertising industry practices strongly suggest that the cost data are sufficiently reliable to form the basis for the FTC's annual compliance cost estimate.

Using the cost data developed by Keenan and McLaughlin, FTC prepared an estimate of the annual compliance costs that a quarterly rotational health message system would impose on advertising agencies and cigarette manufacturers. Table 1 summarizes FTC's estimate.

Estimated maximum annual compliance costs (1980 dollars) for a quarterly rotating warning message system

Magazines	$29,000
Newspapers	31,000
Newspaper supplements	9,000
Outdoor advertising displays	16,000
Administrative costs (private)	218,000
Cost per quarterly change	303,000
Estimated maximum annual compliance costs, $1.2 million	

Below we review FTC's assumptions and methodology, and other considerations.

FTC'S ASSUMPTIONS

FTC made the following assumptions about the kind and frequency of health warning messages:

That the warning symbol remains unchanged

Both a warning symbol (such as a rectangular box drawn around a message) and the warning message itself can change at the same time, or only the message can change. FTC estimated costs based on the unchanging symbol option, concurring with Keenan and McLaughlin that rotating both the symbol and the message would greatly increase costs while not necessarily making the message more effective.

That each advertisement needs original artwork

Production costs were developed for each print process for both original artwork and duplicate artwork. According to Keenan and McLaughlin, once the artwork is created for an advertisement, that same advertisement may appear in several magazines and/or newspapers. Advertisers do not need to make up separate artwork for each magazine or newspaper. Instead, original work is duplicated for a small fraction of the original setup costs. However, to be conservative, FTC assumed each advertisement required an original materials setup.

That message rotation occurs every 3 months

A rotational health message system could include the option of having rotation occur when the advertiser decided to place an entirely new advertisement. If this occurred, the extra production costs of a rotating message would be negligible. But FTC's cost estimate assumed a fixed quarterly rotational schedule which would not coincide with the length of a manufacturer's normal advertising run.

FTC'S METHODOLOGY

Using the assumptions described above, FTC estimated separately production costs for magazines and newspapers, outdoor advertising displays, and administrative costs.

Magazines and newspapers

FTC determined from advertising industry publications that 23 magazines accounted for almost 90 percent of all magazine cigarette advertisement billings in 1980. A "random sample" of 11 magazines was selected from these 23 magazines. These 11 magazines had an average of 8 cigarette ads per magazine. Changing a message in offset or letterpress artwork was estimated by Keenan and McLaughlin to cost $150 per change (assuming no duplicate artwork, which is less costly per change). Therefore, the production costs for changing a message in the advertisements in a typical magazine would cost about $1,200. The cost of a one-time message change for 23 magazines therefore would be about $27,600 ($1,200 × 23). The ratio of estimated production costs to annual billing in the 23 magazines was one one-hundredth of one percent. FTC reasoned that this percentage could be used to extrapolate an estimate to include the other 10 percent of magazine billings not represented in the sample of 23. Thus, FTC calculated that given 1980 magazine cigarette advertising of $287 million, maximum production costs for a one-time change in a warning message for all magazines would be $29,000.

The production cost estimates for newspapers and newspaper supplements were estimated by applying the same ratio of production costs to total billings for cigarette advertisements, plus an adjustment for higher artwork costs in the rotogravure process used for newspaper supplements.

The ratio methodology used by FTC for magazines and newspapers is an acceptable procedure. The underlying assumption is that production costs of a sample of publication bears a proportional relationship to the total advertising billings. The ratio derived is then applied to all publications which carry cigarette advertising. That production costs bear an approximate direct relationship to billings seems sensible.

Outdoor display advertising

Outdoor display advertising includes printed billboards, transit posters, and painted billboards. FTC combined printed billboards and posters for cost estimating purposes because they both are typically changed monthly. This industry advertising practice means that rotational health warning messages can be incorporated when these monthly changes occur. FTC computed the applicable unit cost to be the negligible extra cost of duplicating original artwork.

With respect to painted billboards, FTC would modify the requirement of quarterly message rotation and require a message change only when the advertisement is changed. This would not involve any extra costs. FTC believed requiring repainting billboards quarterly would involve a substantial cost relative to the exposure importance of painted billboards in total outdoor display advertising.

Other advertising media

Point-of-sale and promotional materials which have indefinite lives were also considered by FTC. It concluded that incorporating a rotational warning message on these items was not feasible. Thus, no cost estimates were made.

Administrative costs

Finally, FTC estimated the administrative costs imposed on the cigarette companies and the advertising agencies to be $218,000 per message change. FTC arrived at this estimate by relying on the Hourly administrative cost estimates of cigarette manufacturers and their advertising agencies prepared by Keenan and McLaughlin. We reviewed these estimates and have no reason to question their appropriateness.

CONCLUDING OBSERVATIONS

We conclude that FTC's $1.2 million estimate for compliance with the rotating message requirement in cigarette advertisements should be viewed as an upper

bound on annual costs likely to be incurred. This is because FTC assumed that a required quarterly rotation of health messages would not synchronize with industry-initiated revisions of magazine and newspaper advertisements and that all these advertisements use original artwork. Incremental cost estimates for other types of advertising and administrative costs associated with the rotational warning system seem reasonably derived. We note, however, that the FTC estimate did not include compliance costs for rotating messages on cigarette packages. We have no information on the possible magnitude of these costs.

It is important to note that our review was limited to FTC's estimate of compliance costs of the proposed rotational health warning system. A full analysis of all costs and benefits would include indirect costs and benefits that are potentially more significant than the direct compliance costs in any decision regarding the appropriateness of the proposed legislation. Some indirect costs might result if cigarette manufacturers decide to recast their media advertising in terms of new strategies and designs. We have no information assessing whether this would occur or what the costs of the reformulation would be. But it is conceivable that such costs could be significant.

Also, to the extent that cigarette smokers curb their purchases of cigarettes in response to the more cautionary rotating health warnings, the sales, profits, and purchases of the tobacco manufacturers and suppliers could decline and the return to capital investment could be adversely affected. On the other hand, there are presumed health benefits associated with reduced cigarette smoking, including the direct benefits to individuals or improved well-being and decreased mortality. Other benefits to be considered are possible reductions in health care costs and fewer lost work days.

Sincerely,

MORTON A. MYERS, *Director.*